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INTERNAL REVENUE INVESTIGATION

REPORT

OF THE

COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES
EIGHTY-SECOND CONGRESS

PURSUANT TO

H. Res. 78, 82d Congress

A RESOLUTION AUTHORIZING AND DIRECTING CERTAIN STUDIES AND INVESTIGATIONS TO BE CONDUCTED BY THE COMMITTEE ON WAYS AND MEANS

JANUARY 3, 1953.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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COMMITTEE ON WAYS AND MEANS,
HOUSE OF REPRESENTATIVES,
Washington, D. C., January 3, 1953.

Hon. RALPH R. ROBERTS,
Clerk of the House of Representatives,
Washington, D. C.

DEAR MR. ROBERTS: Transmitted herewith is a report of the Subcommittee on Administration of the Internal Revenue Laws of the Committee on Ways and Means, which was approved and adopted unanimously by the Committee on Ways and Means for filing with the House of Representatives pursuant to the following resolution which was agreed to unanimously by the committee on January 3, 1953:

"*Resolved*, That the report of the Subcommittee on Administration of the Internal Revenue Laws be approved and be adopted as a report of the Committee on Ways and Means to the House of Representatives."

Sincerely yours,

JERE COOPER,
Acting Chairman, Committee on Ways and Means.

Union Calendar No. 805

82D CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 2518

INTERNAL REVENUE INVESTIGATION

JANUARY 3, 1953.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. COOPER, from the Committee on Ways and Means, submitted the following

REPORT

[Pursuant to H. Res. 78, 82d Cong.]

INTRODUCTION

Pursuant to Section 136 of the Legislative Reorganization Act, and to House Resolution 78, Eighty-second Congress, first session, the Committee on Ways and Means has been authorized to investigate the administration of the internal revenue laws. This subcommittee was thereafter created by action of your committee with broad instructions to carry out this purpose.

While the subcommittee has, of course, been vitally interested in bringing about greater efficiency in the administration of the revenue laws, it has felt it necessary to give first attention to the problem of probable corruption in our tax system. Accordingly, your subcommittee's efforts to expose corruption in revenue administration and prevent its recurrence form the basis of this report.

Your subcommittee's pattern of operations in studying each phase of internal revenue administration has consisted of three steps. First, the staff has examined representative samples from the Government's files in a particular area for evidence of mishandling, interrogated taxpayers and their attorneys and field agents of the Bureau of Internal Revenue with respect to particular cases in which evidence of improper administration was encountered, and interviewed top administrative officials to obtain their views on the material uncovered. Next, the subcommittee has made public the more important evidence of improper administration and obtained recommendations for improvement thereof. Now, as part of the final step of suggesting and implementing appropriate reforms, the subcommittee is issuing this report.

Where prior to the writing of this report the executive branch of the Government has initiated reforms in administration designed to eliminate the abuses uncovered in the hearings, the subcommittee has given them study and will in this report render its opinion as to their effectiveness. Where no remedies have been introduced by the executive branch for the particular difficulties uncovered by the subcommittee, this report will attempt to suggest appropriate changes. In instances where the subcommittee's investigations or hearings have not been completed, due to lack of time, or where the subcommittee has not as yet been able to arrive at specific recommendations for reform, this report will attempt to sketch the work remaining to be done.

The subcommittee has endeavored to conduct its investigation of the federal revenue system without injury to the reputations of innocent persons. The subcommittee's rules, which are reprinted in Appendix A, provide important safeguards for witnesses and persons named in hearings, including a limited right of cross-examination, the right to submit statements for the record, and the right to counsel. Your subcommittee has found these rules well received by witnesses and the public generally, and suggests that they be considered by future investigating committees of Congress.

The success of the subcommittee's activity is due in great measure to the assistance given by the principal subject of its investigation, the Bureau of Internal Revenue itself. Most Bureau officials have cooperated closely with the subcommittee in an effort to expose misconduct and to achieve positive reforms. True, there have been some occasions when it seemed that the Treasury Department was attempting to impede the subcommittee's work. Despite these occasional lapses, there has been a determination to put matters to right, particularly when pointed up by your subcommittee. Such a joint investigation is probably without precedent in our history. It should prove a useful pattern for the future.

A major field of inquiry in which your subcommittee has succeeded in revealing substantial abuses and in which important remedies have been adopted by the executive branch concerns the selection and supervision of personnel of the Bureau of Internal Revenue. Disclosure in subcommittee hearings of shocking misconduct by high officials charged with the enforcement of the internal revenue laws led to the resignation or dismissal of many, including the Assistant Commissioner in Charge of Operations, the Chief Counsel for the Bureau, the Assistant Attorney General in Charge of the Tax Division of the Department of Justice, and a number of Collectors of Internal Revenue, all of whom were political rather than civil service appointees.

These revelations of misconduct resulted in the adoption of Reorganization Plan No. 1 of 1952, under which, in effect, the office of Collector of Internal Revenue was changed from a political to a civil service post. Evidence tending to show looseness in supervision of Bureau employees and unwarranted opportunities for corruption at various levels resulted in the institution of three important devices for self-policing in the Bureau. They were the establishment of the Bureau's Inspection Service, the initiation of a program of auditing the tax returns of Bureau employees, and the introduction of a regular system of net worth questionnaires for Bureau employees.

A second major field of inquiry in which the subcommittee can report substantial accomplishments concerns the handling of cases

of suspected tax fraud. The subcommittee focused its attention on the inordinately complex chain of successive reviews of such cases prior to ultimate determination to prosecute. In consequence, that system was revised by the Bureau of Internal Revenue with an estimated resultant reduction in average elapsed time between the initial recommendation of prosecution in the field and ultimate referral to the Department of Justice from 292 to 152 days. The subcommittee's hearings made it clear that in many cases the Bureau's policies of not prosecuting alleged tax violators who were in poor mental or physical health or who had made "voluntary" disclosures of their culpability, permitted perpetrators of gross tax frauds to escape punishment. These policies have now been abandoned by the Bureau.

The subcommittee has investigated the conduct of lawyers and accountants representing taxpayers before the Treasury Department and as a result of its discoveries some changes in policy have been adopted by the Treasury, which the subcommittee hopes will improve the quality of the Treasury bar. Recommendations for further changes are made in this report.

In addition to focusing on corruption in the administration of revenue collection, the subcommittee has given attention to plugging procedural loopholes in present internal revenue laws by means of which dishonest taxpayers are enabled to perpetrate frauds. The chairman of the subcommittee introduced in the Eighty-second Congress H. R. 7893, a bill designed to improve the enforcement and administration of the revenue laws. The bill was considered at length by the Committee on Ways and Means, in both public and executive sessions. Several revisions have been made in the bill in accordance with suggestions made by Members of Congress, Treasury officials, and private groups. This revised bill will be available for your consideration in the next Congress.

The subcommittee is aware that the Tax Division of the Department of Justice plays an important part in the administration of internal revenue laws and may affect the efficiency of operations in the Bureau of Internal Revenue. Your subcommittee has also noted that the Bureau of Internal Revenue is charged with various regulatory activities having little bearing upon the collection of revenue. This report will describe in general the extent of these problems, but the subcommittee has had to leave to future Congresses the full analysis of the problems and the suggestion of remedies.

This report consists of seven sections, each dealing with a specific phase of the subcommittee's activities, as follows:

(1) Self-policing in the Bureau of Internal Revenue.
(2) Processing of criminal tax fraud cases.
(3) Tax practitioners.
(4) Law enforcement and regulatory activities of the Bureau.
(5) The Tax Division of the Department of Justice.
(6) Reorganization Plan No. 1 of 1952.
(7) Legislative and administrative recommendations.

Attached to this report as Appendix B is a chronology of the more important events in the history of the subcommittee.

SECTION I

SELF-POLICING IN THE BUREAU OF INTERNAL REVENUE

The desirability of staffing the Bureau of Internal Revenue with honest employees is undisputed. The Revenue Agent who audits a taxpayer's return, the Special Agent who investigates charges of fraud, the Collector who enforces liens against the taxpayer's property, the Commissioner who can make exceptions to the very rules he has established, each of these exercises a discretion which must not be influenced by personal interest in the taxpayer, let alone by bribery. Even the acceptance of small favors from a taxpayer, not directly related to any special benefit to him, can place a revenue officer so much under obligation that proper enforcement of the tax laws against the taxpayer becomes impossible.

Revelations by your subcommittee of misconduct at various levels of the Bureau have received much public attention. That the apparent criminality of certain Bureau employees should have come to light only as a result of a congressional investigation proves that the heretofore existing self-policing devices of the Bureau of Internal Revenue have been gravely inadequate. As a result of the investigations by your subcommittee, the Bureau has now adopted new devices for detecting corruption and misconduct in the activities of its employees. These will be described in this section of the report.

The dependence of the American tax system on honest self-assessment by taxpayers is stressed in section II of this report. Public confidence in the integrity of employees of the Bureau of Internal Revenue is essential to preservation of this self-assessment system. The new measures to eradicate corruption in the Bureau, described in the present section, will contribute to such public confidence. Equally important, however, to the preservation of faith in the honesty of the Bureau is the careful avoidance of unfounded and unsubstantiated charges against the Bureau and its employees.

A. MISCONDUCT CASES DISCLOSED BY THE SUBCOMMITTEE

One pattern of evidence runs through all the corruption cases investigated by this subcommittee. A revenue officer who derives profit from abuse of his office always ends up with an embarrassing surplus of money for which he cannot account. Either he spends it on a scale of living inexplicable for one in his income bracket, or he accumulates property resulting in an unaccountable growth in net worth. To conceal his misconduct he usually omits the illicit income from his personal income tax return, thus becoming a tax evader. By carefully checking the expenditures and way of life of certain Bureau personnel, your subcommittee has been able to detect and expose Bureau

employees who had used their official position for private gain. The details of many of these cases are reproduced in the record of this subcommittee's public hearings.

The public is already familiar with some of the fanciful explanations made to the subcommittee to justify tremendous increases in net worth, such as the winning bet on a horse that did not race, or the fantastically generous friends and relatives who showered some agents with gifts of cash.

In addition to the cases described in the hearings, the subcommittee initiated net worth investigations of other Bureau employees against whom seemingly derogatory information had been received. As of December 1, 1952, disciplinary action had been recommended by Bureau officials in over 17 percent of the completed investigations. These statistics alone demonstrate the magnitude of the problem and the size of the job faced by your subcommittee. They demonstrate also the failure of the Bureau's former self-policing program to do the job.

Prior to this subcommittee's activities, the Bureau's self-policing endeavors were limited to employees located in the offices of the Collectors of Internal Revenue. No attempt was made to check on the honesty of Bureau employees situated elsewhere. Even the policing work in the Collectors' offices was inadequate and ineffective.

Until 1951, ninety-five inspectors, known as Supervisors of Accounts and Collections, were charged with the responsibility of checking on the efficiency and honesty of some thirty-one-thousand Bureau employees located in offices of Collectors. These Supervisors were instructed to accomplish their purposes by persuasion. They were not authorized to change operating procedures. Indeed, on many occasions Supervisors were threatened with reprisals when they offended the politically appointed Collectors of Internal Revenue whose conduct in office they were supposed to supervise. Reports and recommendations from Supervisors regarding the conditions in certain Collectors' offices had for years been buried in Bureau files unheeded. Clearly, the system had broken down in certain instances.

B. REMEDIES

As stated above, one sure sign of corruption of a Bureau employee is his unaccountable affluence, evidenced through accumulations of wealth or through high living inconsistent with his apparent resources. At the behest of this subcommittee, two methods of discovering such cases have recently been adopted by the Bureau. These are the net worth questionnaire and the auditing of employees' tax returns.

Since 1935 all applicants for Bureau positions involving direct contact with taxpayers have been required to file a statement of personal net worth, but no attempt was made to check increases in net worth after service with the Bureau. In October 1951, at the instance of this subcommittee, the Bureau ordered all employees in these classifications to supply current net worth statements. Like statements will be required periodically henceforth. By comparing net worth statements from time to time, it will be possible to determine whether an employee has accumulated property at a rate inconsistent with his declared income.

Apparently prior to 1951 the personal tax returns of Bureau employees were not audited frequently. The audit system recently inaugurated by the Commissioner, on the recommendation of this subcommittee, contemplates the auditing each year of the personal tax returns of all Bureau employees of the same classifications as those who are required to file net worth questionnaires. The Commissioner has advised the subcommittee that the auditing program in the first months of its operations has uncovered 66 cases meriting disciplinary action.

The administration of the net worth questionnaire and auditing programs has been entrusted to the Inspection Service of the Bureau, which was created in October 1951. The Inspection Service, in addition, will check whether Bureau employees are living at a level far above their apparent means. It is responsible also for investigations of charges of misconduct made against Bureau employees. Prior to the establishment of the Inspection Service, such charges were investigated by the Intelligence Division, the chief function of which was the investigation of charges of fraud against ordinary taxpayers. Creation of a separate unit having as its only function the policing of Bureau personnel should improve the effectiveness of such activity.

Not all misconduct cases involve the acceptance of direct bribes. Bureau employees attempting to supplement their income by normally legitimate outside activities may be influenced by such connections in particular tax cases. Accordingly, after discussions with your subcommittee, the Commissioner has recently promulgated stricter requirements with respect to outside activities of Bureau employees. He has also tightened the Bureau rules prohibiting the acceptance of gratuities and made it clear that they apply to non-cash benefits such as the acceptance of hospitality, railroad accommodations, hotel space, and the like. The more important of these revised rules are set forth in Appendix C. Checking on violations of these new, more stringent rules will be the responsibility of the Inspection Service.

The section of this report dealing with tax practitioners discusses the fact that a Bureau employee usually cannot be corrupted unless the taxpayer or his representative is a party to the corruption. Changes in the practitioner program recommended in that section are designed to reduce the frequency of attempts by practitioners to corrupt Bureau employees.

C. CONCLUSION

Admittedly, the remedies discussed above are not infallible. It is clear, however, that they will be of great value to the Bureau in preventing a recurrence of the conditions exposed by your subcommittee. Careful investigation by the Inspection Service of each report that an employee is living beyond his apparent means, together with diligent enforcement of the new net worth questionnaire and auditing programs, should result in substantial elimination of corruption in the Bureau without injury to the great mass of honest and efficient employees. Certainly, flagrant cases such as those reported in the subcommittee's public hearings should be rare if the new programs are properly administered.

SECTION II

PROCESSING OF CRIMINAL TAX FRAUD CASES

The American tax system depends on honest self-assessment by taxpayers. Today most taxpayers report their true income without compulsion. As a result, it costs the United States less than 50 cents to collect $100 of taxes. If the Government had to enforce the collection of taxes by investigating every taxpayer and auditing every return, the cost would be staggering. The threat to American democracy in engaging a vast army of tax collectors would be hard to estimate.

The self-assessment system requires public confidence, first, that each citizen pays his fair share of taxes and no more, and second, that there is swift and sure punishment for the tax evader. The first premise can be supported by effective audit and enforcement work. The second requires an even-handed and speedy handling of criminal tax fraud cases.

A. PROCEDURE IN CRIMINAL TAX FRAUD CASES

When indications of fraud are found by a Revenue Agent or Deputy Collector in the course of an audit of a taxpayer's returns, a Special Agent from the Intelligence Division of the Bureau of Internal Revenue is assigned to handle the criminal aspects of the case. The Special Agent is empowered to recommend criminal prosecution of the taxpayer if he feels it is warranted by the facts. Under the former procedure, this recommendation was then successively reviewed by a reviewer in the Special Agent's office, by the Special Agent in Charge, by several lawyers in the Regional Counsel's office of the Bureau, by the Regional Counsel, by reviewers in the Penal Division of the Chief Counsel's office in Washington, then by the head of the Penal Division, and finally by the Chief Counsel himself. If the recommendation survived all these Bureau reviews, the Commissioner of Internal Revenue would transmit the case to the Department of Justice with a recommendation for criminal prosecution. The review procedure would then begin all over again, this time in the Tax Division of the Department of Justice. First the case was passed on by an attorney in the Tax Division, next by a section chief in the Tax Division, then by the First Assistant to the Assistant Attorney General in charge of the Tax Division, and finally by the Assistant Attorney General. If the case percolated through these layers of review in the Department of Justice, it would finally be sent to the United States Attorney in the taxpayer's district. Here again there would be a review of the whole case. Only after it had been thus determined and redetermined that the taxpayer should be prosecuted would the case be presented to a grand jury for indictment. The risk that the statute of limitations would run before the case could be processed through these fourteen stages of legal study is evident.

Another factor prolonged this review process. The taxpayer was allowed a conference with the reviewing official at each stage. At each such conference the taxpayer and his attorney could submit reasons why the taxpayer should not be prosecuted. The same argument could be made over and over again at each successive office, thereby delaying the case and increasing the likelihood that the statute of limitations would bar prosecution. Indeed, your subcommittee has found that in some cases lawyers would be granted repeated conferences with the same official, even though no new evidence or arguments would be introduced.

No regular procedure existed for the review of decisions against prosecution at any of the fourteen stages. Unless the recommending officer had a great interest in pushing the case against the will of his superiors, no protest would be made of a decision not to prosecute.

These administrative and procedural difficulties made the development and preparation of a criminal tax fraud case one of the most time-consuming operations in the Bureau. For example, the time spent in the Bureau in reviewing the legal aspects of each case, after the field investigation and processing had been completed, averaged 292 days.

The net result of all this was that a tax evader who had expert legal advice could engage in delaying actions over a period of years with a good chance of not standing trial, despite his guilt; and the taxpayer who could get other support was even more likely to stay out of jail.

In the past year substantial changes have been made in the handling of criminal tax fraud cases by the Bureau. Under the new procedure, the Special Agent's recommendation is reviewed by his superiors in the field offices of the Bureau, and the case then goes to the Enforcement Counsel, also in the field. If the Enforcement Counsel concurs in the recommendation, the case is sent directly to the Department of Justice without review in the Bureau's Washington office. In general, the taxpayer will now be granted only one conference in the Enforcement Counsel's office before the case is sent on.

A further recent policy change, while not designed to accelerate the handling of tax fraud cases, should result in their being more equitably processed. Until recently, it was the official policy of the Bureau not to protest a decision by the Department of Justice against prosecution, except when the Bureau felt that the Department had overlooked a flagrant or vital fact in the case. This policy has been abandoned, and the Penal Division of the office of the Chief Counsel for the Bureau will now re-examine each case which the Tax Division or a United States Attorney refuses to prosecute despite a recommendation by the Bureau.

In many cases in recent years, the Tax Division has declined to prosecute a taxpayer who has been previously prosecuted in federal or state courts on other criminal charges arising out of the same or related transactions. Awareness of this attitude caused Special Agents in the field in some instances not to trouble to forward for prosecution cases of this nature. The subcommittee is advised that the Tax Division is considering abandoning this policy.

These changes should speed up handling of fraud cases and provide a more regular and consistent pattern of justice in such cases.

B. HEALTH POLICY

Prior to investigations by this subcommittee, it had been the announced policy of the Bureau of Internal Revenue and of the Tax Division of the Department of Justice not to recommend criminal prosecution of an accused tax evader where, in the opinion of government doctors, standing trial might endanger his life or sanity. No precise statistics are available as to the number of cases in which prosecution was declined because of this health policy. This subcommittee's criminal tax fraud case files indicate, however, that the number was relatively large.

In theory, the health policy did not pose significant legal or administrative problems. All that was required was that a government physician examine the taxpayer and state whether he could stand the strain of a trial. In actual practice, however, the health policy proved difficult to apply.

The nature of the claimed ailments, real or feigned, was often such that precise answers could not be given by government physicians. For example, a man with a weak heart might be able to withstand the rigors of ordinary business life but, conceivably, not the excitement and nervous tension incident to a criminal trial. Thus, whenever a taxpayer claimed to be suffering from a heart ailment, government physicians were reluctant to state with finality that there was no risk of death if he were tried.

Even more difficult were mental cases. In this area disease is more difficult to identify and symptoms easier to simulate. Again, it was almost impossible for a doctor to state with certainty that a highly nervous individual would not find the strain of a criminal trial too great. Accordingly, government doctors preferred to state their conclusions in general terms, and, except in the most clear-cut cases, avoided flat statements as to a man's sanity.

Further confusion resulted when taxpayers introduced testimony of their own doctors to controvert opinions furnished by government physicians. This made it necessary for lawyers in the Bureau to choose between conflicting medical opinions. Also, it soon became automatic for the taxpayer to raise the claim of bad health after all other arguments had failed, thus delaying prosecution pending a medical examination and opinion. Finally, the health policy was susceptible of abuse because determinations made pursuant thereto were secret.

For all of these reasons the Bureau of Internal Revenue, on December 11, 1951, after discussions with this subcommittee, announced that it would no longer take into account the taxpayer's health as a factor in deciding whether criminal prosecution should be recommended. The Commissioner stated:

> It is my conclusion that while the general theory of the policy may be sound, the Bureau of Internal Revenue is not a proper agency to take part in carrying it out. * * * Matters of this sort can be more appropriately taken into account within the procedures provided by the judicial processes.

It is the opinion of the subcommittee that this decision by the Bureau was correct. The subcommittee has endeavored to ascertain whether a similar action is contemplated by the Tax Division of the Department of Justice. The Division has now advised that the matter of its health policy is under active consideration. It is the opinion of your subcommittee that if the Tax Division is to continue to decide

prosecution cases on the basis of the taxpayer's health, the policy must be more clearly defined, and adequate administrative safeguards provided, to insure against a repetition of the abuses which have occurred in the past under the health policy.

Attached to this report as Appendix D is a collection of representative cases illustrative of the problems in administering the health policy.

C. VOLUNTARY DISCLOSURE POLICY

Prior to January 10, 1952, the Bureau of Internal Revenue had an announced policy of not recommending criminal prosecution of tax evaders who voluntarily disclosed their true tax liability to the Bureau before any investigation of their tax affairs had begun, and who then paid, to the extent of their ability to do so, the full amount of taxes, penalties and interest.

This policy was expected to simplify audit and enforcement work and to increase revenue since tax evaders would come forward voluntarily if they were sure they would not go to jail. No statistics are available dealing with these matters.

Regardless of the possible merits of the policy, however, it is clear from the subcommittee's examination of Bureau files that the difficulties of administering it were all but insuperable. All too frequently, taxpayers who learned, accidentally or otherwise, that their returns were being audited would then attempt to make a "voluntary" disclosure in order to avoid prosecution. The official view in such cases was that the disclosure would be treated as voluntary unless the Bureau could prove beyond a reasonable doubt that the taxpayer did have knowledge of the pending investigation at the time he made his disclosure.

Many times the Bureau conceded the point rather than risk losing a case in court, and in those cases where the Bureau disputed such a claim, months of delay would ensue before the matter could be settled. Then, typically, the taxpayer would raise the same argument all over again with the Tax Division of the Department of Justice. The Tax Division frequently refused to prosecute on the ground that the taxpayer's claim of voluntary disclosure, even if without merit, so weakened the case that prosecution would be unsuccessful. So, again, a taxpayer with expert and determined counsel had an excellent chance of avoiding prosecution, no matter how gross his tax evasion had been.

Moreover, the voluntary disclosure policy was subject to abuse in the field. A corrupt agent or field official had a sure method of "killing" cases, by simply stating that he had agreed to accept the taxpayer's cooperation in lieu of recommending criminal prosecution. These agents knew that an administrative finding of voluntary disclosure generally resulted from such a statement by the field agent.

Although the subcommittee believes that it is in accord with the American system of justice that there should always be an inducement for an undetected, conscience-stricken offender to right past wrongs by paying taxes, interest, and penalties in full, it is undeniable that the voluntary disclosure policy has occasioned needless delay, provided a means whereby an evader could by subterfuge avoid prosecution, and made it possible for dishonest Bureau employees to "fix" criminal cases with impunity. For these reasons, the Bureau has abandoned the policy.

Attached to this report as Appendix E is a discussion of a number of unprosecuted criminal tax fraud cases in which the voluntary disclosure policy was a factor. The records of these cases illustrate the administrative and legal problems caused by this policy.

CONCLUSION

The voluntary self-assessment system of taxation is based on public confidence that all taxpayers are paying their fair share. It is essential, therefore, that tax evaders be promptly detected and punished for their misdeeds. The processing of criminal tax fraud cases has, in the past, been subject to long delays and considerable inconsistencies in the disposition of cases. Many cases were disposed of under policies which were difficult to administer and easily abused. On occasion, both the Bureau of Internal Revenue and the Tax Division of the Department of Justice decided cases on questions which should properly have been left for determination by a court. Many of these difficulties have been remedied in the past year, but additional improvements remain to be effected.

SECTION III

TAX PRACTITIONERS

The great bulk of the business of the Bureau of Internal Revenue is handled through conferences with taxpayers and their representatives. Were it not for the disposition of most tax cases by administrative process without recourse to litigation, the country's judicial machinery and federal revenue system would undoubtedly break down.

Typically, a taxpayer is represented before the Bureau by an attorney at law or an accountant. Upon this representative falls the main responsibility for the presentation of the taxpayer's case and for the conduct of negotiations. The honest and able practitioner performs vital services for his client in this area with no injury to the revenue. The dishonest practitioner, on the other hand, is a constant menace to the entire tax system.

Persons desiring to represent taxpayers in proceedings before the Treasury Department are required first to enroll with the Secretary of the Treasury. By statute, the Secretary may require applicants for enrollment to show their good character, reputation, and professional fitness. Under long-standing Treasury Department regulations adopted pursuant to this statute, all persons other than attorneys at law, certified public accountants, and certain former Bureau employees are required to pass an examination in order to demonstrate their professional fitness. After notice and opportunity for hearing, the Secretary may suspend or disbar any enrollee shown to be no longer qualified. (5 U. S. C. 261)

The importance of the Secretary's using this authority to insure the high caliber of the Treasury bar is self-evident. Of course, arbitrary exercise of this authority to prevent service by any qualified person or to give any particular group a favored position is to be deprecated. The subcommittee has not had an opportunity to determine whether present Treasury Department requirements for the showing of professional competence may be either inadequate or unduly severe, and expresses no comment thereon. In the opinion of the subcommittee, however, existing regulations and procedures do not guarantee the necessary unimpeachable character and ethical standards of enrolled practitioners.

A person desiring to enroll as a Treasury practitioner must, under present regulations, submit an application briefly stating his professional qualifications, listing references and revealing his present or past involvement in criminal or professional disciplinary proceedings. If the application is satisfactory on its face, a temporary enrollment card is issued. An investigation is then made to check the references and statements made in the application; sometimes the applicant's personal tax returns are also examined. Upon satisfactory completion of the investigation, a card entitling the applicant

to enrollment for a five-year period is issued. If the investigation uncovers any derogatory information and denial of the application is contemplated, a formal hearing is granted to the applicant if he so wishes. In like manner, derogatory information concerning an enrolled practitioner is investigated and may result in proceedings to disbar or suspend the enrollee in accordance with certain requirements prescribed by Treasury regulations, including a formal hearing.

Investigations conducted by this subcommittee have led it to conclude that the present system of enrolling and supervising Treasury practitioners presents three major problems. First, no one official or group is responsible for administering the entire practitioner program. Second, the program is being administered as if practice before the Treasury Department were a right to be denied no one not clearly proven ineligible, instead of a privilege to be granted only to those shown to be eligible. Third, disciplinary action against a practitioner is customarily postponed until completion of all criminal and civil tax fraud proceedings arising out of the same facts; this has frequently resulted in substantial delays in appropriate disbarment action. An analysis of these difficulties will be set forth below.

Your subcommittee has limited its studies and recommendations to the roster of attorneys and accountants enrolled for practice before the Treasury Department. Such enrollment is not required of persons whose only activity is to assist taxpayers in filing returns. Your subcommittee realizes that there are honest and competent persons who, while not Treasury enrollees, render valuable service to the Government by assisting taxpayers with their returns. Your subcommittee also recognizes that the mere fact that a taxpayer's representative is a Treasury enrollee is no assurance of fair treatment for either the taxpayer or the Government, and that a requirement compelling all such representatives to be Treasury enrollees does not stop the unscrupulous from working undercover or through others.

However, it is apparent that a number of unqualified and unscrupulous persons are presently engaged in the preparation of tax returns for compensation. Some measure of protection against such persons ought to be afforded to taxpayers. Your subcommittee has recommended to the Secretary of the Treasury that this problem be thoroughly studied and that consideration be given to the possibility of instituting some program of registration of persons who make a business for pay of assisting taxpayers in the preparation of returns. Thus far, the attitude of the Treasury Department on this problem has been passive. In the meantime, taxpayers remain easy prey for such pseudo experts.

A. RECORD OF ENFORCEMENT OF REGULATIONS GOVERNING CONDUCT OF ENROLLEES

Investigations of improprieties in the Bureau of Internal Revenue, discussed elsewhere in this report, early led your subcommittee to conclude that some cases of tax fraud and of corruption of public officials would not have occurred if the practitioner representing the taxpayer had been of the high moral and professional caliber which may reasonably be expected. This conclusion led the subcommittee to question various Treasury officials in charge of the practitioner pro-

gram, and to investigate numerous cases of alleged enrollee misconduct during the last few years.

These investigations disclosed that, although the Treasury roster reached nearly 100,000 persons at its peak in recent years, practically no disciplinary activity occurred. The following data have been furnished to the subcommittee by the Treasury Department with respect to the period from January 1, 1946, through January 1, 1952: Three practitioners were disbarred; proceedings were begun against three other practitioners but were allowed to lapse upon the expiration of their Treasury enrollment cards; seventy-six other persons were allowed to resign to avoid disbarment proceedings.

In Appendix F of this report will be found summaries of forty cases reviewed by the staff of this subcommittee. These summaries will show the sorts of misconduct with which various enrollees were charged, and the disposition made of the cases by the Treasury Department. Particular attention is called to the numerous cases in which an enrollee was charged with misconduct involving moral turpitude and even was convicted in the criminal courts without his Treasury enrollment card being revoked.

Based upon its study of these and other cases, the subcommittee has concluded that the regulations of the Treasury Department with respect to enrolled practitioners have been largely ignored, with impunity, by many practitioners. The failure of the Treasury Department properly to enforce these regulations has been one cause of the corruption and moral laxity which have been found to exist in our tax system.

B. DIVIDED AUTHORITY AND RESPONSIBILITY FOR ADMINISTRATION OF ENROLLEE PROGRAM

Responsibility for administering the practitioner program is divided among several units of the Treasury. The "Committee on Practice," consisting of a full-time chairman and two part-time members, does the mechanical work of accepting and checking applications for enrollment, issuing Treasury cards and maintaining a roster of enrollees. The "Attorney for the Government," a full-time lawyer, is charged with the responsibility for prosecuting all disbarment proceedings, and in connection therewith handles complaints of misconduct. Disciplinary proceedings are prosecuted by the Attorney for the Government before a hearing examiner lent for the purpose by the Alcohol and Tobacco Tax Division of the Bureau of Internal Revenue. An order of disbarment or suspension issued by the examiner can be made final only by action of the Secretary of the Treasury. All investigatory work, in connection with both original applications for enrollment and charges of misconduct, is handled by the Intelligence Division of the Bureau of Internal Revenue.

This division of authority and responsibility has resulted in hit-or-miss administration. For instance, neither the Attorney for the Government nor the Intelligence Division makes any general periodic check on the good behavior or current professional status of enrollees. Only now, after prodding by this subcommittee, has the Committee on Practice begun a program of routine checks with state crime enforcement officials, bar associations, and other obvious sources of information as to the conduct of enrollees. The Committee on Practice has no juris-

diction over the Attorney for the Government and cannot require him to initiate disbarment proceedings against any enrollee. On the other hand, the Attorney for the Government does not participate in the establishment of requirements for enrollment, maintenance of the roster, or other mechanical details. All of these officials disclaim any authority to reprimand an enrollee or to suspend him pending investigation of charges of misconduct. The Committee on Practice holds hearings in cases where applications to practice are denied, but has no jurisdiction over disbarment proceedings.

With minor exceptions, the Treasury regulations governing practitioners are in the same form today as before passage of the Administrative Procedures Act in 1946. It may be that failure to review the regulations after enactment of that statute is responsible for existing confusion as to the relative authority and responsibility of the various officials concerned with the practitioner program. For example, the regulations clearly contemplate that the resignation of an accused practitioner against whom disbarment proceedings are proposed might be refused because of the greater deterrent effect of a formal disbarment to misconduct by other practitioners. The subcommittee is aware of no prohibition in the Act of such a refusal of a resignation. Yet the present Attorney for the Government believes himself obligated by the Act to give every accused practitioner a chance to resign while the Chairman of the Committee on Practice thinks he must under the Act accept any proferred resignation. Each officer apparently believes the other to be responsible for any discretionary refusal of resignations. As a result, resignations are never refused.

A revision of the Treasury Department's regulations in the light of the Administrative Procedures Act might clarify matters of this sort in the minds of the officials entrusted with the administration of the practitioner program.

The subcommittee recommends that the Treasury Department end this division of responsibility and authority for administration of the practitioner program. The Secretary should designate one full-time official of the Treasury whose job it would be to establish the qualifications for enrollment and to make sure that all practitioners meet such requirements, both at the time of enrollment and thereafter.

C. PRACTICE BEFORE THE TREASURY DEPARTMENT IS A PRIVILEGE

Your subcommittee has ascertained that the practitioner program is presently being administered as if practice before the Treasury Department were a right rather than a privilege. The Chairman of the Committee on Practice testified that he considered practice before the Treasury Department to be a right of which no attorney or certified public accountant can be deprived unless he is proved beyond a reasonable doubt to be a criminal. The Attorney for the Government admitted that practice before the Treasury Department is, technically at least, a privilege, but stated that it is a privilege of "very high dignity," particularly since passage of the Administrative Procedures Act.

Examination of current practices in granting enrollments and in handling charges of misconduct against practitioners demonstrates official reluctance to deny any person a Treasury card. When the Committee on Practice receives an application from an attorney or

certified public accountant, it automatically issues a temporary enrollment card if the application is in proper form, even if the Committee has in its files derogatory information concerning the applicant. In like manner, when the Attorney for the Government receives a disbarment recommendation from the Intelligence Division, he is apparently unwilling to initiate disbarment proceedings unless he can prove beyond a reasonable doubt the unfitness of the enrollee. For example, if an enrollee is indicted on criminal charges and is thereafter acquitted, no disbarment proceedings are attempted, even though the enrollee's unfitness is still clear. While both the Chairman of the Committee on Practice and the Attorney for the Government profess to recognize the possibility that evidence of misconduct, while not sufficient to convince a jury beyond a reasonable doubt of the criminal guilt of a practitioner, might be strong enough to warrant termination of the privilege to practice before the Treasury Department, they could recall no case in which disbarment of an enrollee was proposed after his acquittal of criminal charges.

Your subcommittee is aware that attorneys and accountants admitted to practice before the Treasury Department would be subjected to unjust economic and professional hardship if arbitrarily disbarred on flimsy evidence. Your subcommittee believes, however, that there may be circumstances warranting disbarment even when there has been no conviction of a crime. Certainly, when a man is merely applying for enrollment, there is no great injustice to him if he is temporarily denied the privilege to practice while derogatory information is investigated. Moreover, examination of the cases in Appendix F will demonstrate conclusively that numerous enrollees have been allowed to keep their Treasury cards even after their unfitness to practice had become clear. This is due, in part at least, to the failure of these officials to observe the well-settled rule that permission to practice before an administrative agency is not a right, but rather is a privilege, to be granted only to those worthy of it.

D. DELAYS IN INITIATING DISCIPLINARY ACTION

Most charges against practitioners concern participation in a tax fraud and, therefore, originate in a recommendation by the Special Agent investigating the tax matter. Under announced policies of the Intelligence Division, a case against a practitioner is never forwarded to the Attorney for the Government for disciplinary action until after completion of all possible fraud proceedings, both criminal and civil. This means that the Intelligence Division may have startling evidence of misconduct by a practitioner at a particular time, but will hold up action to disbar him while the Chief Counsel's office and the Tax Division determine whether or not to prosecute criminally, while such criminal prosecution is taking place, while new study of the case is made in the Bureau to determine whether or not to seek civil penalties, and while civil penalty proceedings are conducted.

The theory behind this policy is that the revelations of evidence necessary to a disbarment action might prejudice conduct of the criminal or civil tax fraud proceedings. The result, however, is that many years may elapse between discovery by the Intelligence Division of strong evidence of participation in a tax fraud by a practitioner

and the ultimate referral of this evidence to the Attorney for the Government for possible disciplinary action. Many of the cases set forth in Appendix F illustrate the problem.

The subcommittee understands the practical considerations which have led to the adoption of this rule, but suggests possible modification thereof. The Treasury Department should attempt to find a substitute procedure under which the civil and criminal tax fraud proceedings may be protected, and at the same time an obviously unfit practitioner eliminated from the Treasury rolls more speedily. A possible solution, worthy of consideration, might be the adoption of a system of temporary suspension of the practitioner against whom grave charges have been made. This is the procedure followed with respect to most public officials and federal employees generally.

E. RECENT EFFORTS TO IMPROVE THE ENROLLEE PROGRAM

As a result of the activities of this subcommittee, Treasury regulations on practitioners were amended in November 1951. Theretofore all enrollments had been permanent. The new regulation terminated existing enrollments as of March 31, 1952, and gave every enrollee an opportunity at any time during the first six months of 1952 to re-enroll by filing a simple application, bringing up to date statements on his original application relating to his involvement in any criminal or professional disciplinary proceedings. By this simple device the roll was cut from about 97,000 to about 49,000.

Virtually no precautions were taken, however, to prevent re-enrollment of a person fraudulently or incorrectly answering the questions. Moreover, no real attempt was made to deny new cards to those against whom disciplinary action was pending. Thus, of the forty cases described in Appendix F, seventeen of these questionable enrollees presumed to apply for new enrollment, and fifteen received it, without hearing or investigation.

In other words, the re-enrollment program undertaken in November 1951 to purge the Treasury bar of unwholesome elements has already been dealt a crippling blow. A great opportunity for achieving substantial reform has been cast away by improper administration. Your subcommittee trusts that other reforms achieved during the past year will not meet with a similar fate.

SECTION IV

LAW ENFORCEMENT AND REGULATORY ACTIVITIES OF THE BUREAU

In addition to its responsibilities in connection with the administration of the internal revenue laws, the Bureau of Internal Revenue is charged with important law enforcement duties and exercises a considerable degree of control over the alcohol industry in the United States. These non-revenue-producing activities take up an increasing amount of the Bureau's energies, and your subcommittee has therefore been concerned with their effect on revenue administration.

A. LAW ENFORCEMENT WORK OF THE BUREAU

The tax laws of the United States apply equally to income derived from the operation of legal and illegal enterprises. Persons engaged in illegal businesses or rackets are as likely to violate the tax laws as other laws, and they therefore constitute a major enforcement problem to the Bureau. In addition, there has been an increasing tendency over the years to attempt to jail racketeers for tax evasion when it has been difficult to establish their guilt on other charges. Ever since the first conviction of a prominent racketeer for tax evasion, the public has looked to the Bureau for assistance in dealing with the lawless element in our society.

At present the Bureau is engaged in a massive racketeer drive, the object of which is to detect and punish all persons who derive income from illegal sources and do not pay full federal taxes thereon. This decision to concentrate on racketeers is understandable, and indeed the Bureau has been severely criticized for not having devoted more effort to this end in past years. However, the cost of the racketeer drive has not been met by additional appropriations for the Bureau, but rather is being undertaken at the expense of the Bureau's regular audit work. A Revenue Agent assigned to this activity will produce in a year's time about $46,000 in additional taxes; that same agent, if employed on regular audit work, would produce about $184,000 in additional taxes. Thus, it costs the United States about $138,000 in additional taxes for every man assigned to the racketeer drive. The recent enactment of the gambling tax gave the Bureau another major law enforcement job, one which has heretofore been handled almost exclusively at the state or local level.

The extent to which the loss of additional revenue in such law enforcement activities is justified by the obvious benefits to society inherent therein is impossible to determine with precision. It is clear, however, that any proposal to use the Bureau as a law enforcement agency must be carefully weighed both by the Congress, before legislation is passed and appropriations provided, and by the executive branch, in planning the work of the Bureau and of the other federal agencies whose activities are related to law enforcement. Otherwise, the diversion of Bureau enforcement personnel to non-

revenue-producing work will have a serious effect on the federal revenues.

B. THE ALCOHOL AND TOBACCO TAX DIVISION

The taxes on alcohol and tobacco make up the second most important source of federal revenue, aggregating over $4 billion annually. These taxes are collected by the Alcohol and Tobacco Tax Division of the Bureau. The Division is also engaged in many activities other than the mere collection of taxes.

1. Responsibilities of the Division

The Alcohol and Tobacco Tax Division, formerly known as the Alcohol Tax Unit, is responsible for the control and supervision of the legitimate liquor and industrial alcohol industries, the assertion and assessment of liquor taxes, the suppression of non-tax-paid liquor traffic, and the enforcement of the provisions of the Liquor Enforcement Act of 1936 and the Federal Alcohol Administration Act. It is charged with the supervision and regulation of the liquor industry, the approval and denial of permits, bonds, and plant layout plans, the determination of liquor taxes and penalties, and the investigation, detection and prevention of violations of laws relating to alcoholic liquors.

The administration and enforcement of the Federal Alcohol Administration Act is designed to prevent false, misleading and otherwise improper labeling and advertising, to prevent the creation of "tied-house" relationships by use of such practices as commercial bribery, consignment selling, and the inducement of purchases by gifts to retail dealers.

More recently, in November 1951, the responsibility for tobacco tax collection and enforcement was moved from the old Collectors' offices to the Alcohol Tax Unit. The purpose of this transfer was to integrate tobacco tax activities as closely as possible with the collection of alcohol taxes.

By statute, the Division has been charged with other regulatory and enforcement responsibilities, and still other responsibilities have been delegated to it by the Secretary of the Treasury.

The National Firearms Act (26 U. S. C. 2720–2733; 3260–3266), designed to prevent the transfer of certain types of weapons by a prohibitive transfer tax, is enforced by the Alcohol and Tobacco Tax Division, as is the Federal Firearms Act (15 U. S. C. 901–909), which provides a method of prosecuting persons possessing or transporting such weapons. Enforcement of the National Firearms Act is expressly given by statute to the Division, whereas enforcement of the Federal Firearms Act has been delegated to it by the Secretary of the Treasury. The Secretary has also charged the Division with enforcement of the Act of August 9, 1939 (49 U. S. C. 781, 788), which provides for forfeiture to the United States of vehicles seized in the transportation of firearms in violation of the two Firearms Acts.

Accidents involving Bureau personnel or property which result in claims against the government in excess of $100 are investigated and processed by the Division.

2. Regulation of the Liquor Industry

Any manufacturer who wishes to produce an article containing alcohol in any form must first obtain a basic permit from the Division.

Likewise, any distiller, importer, rectifier, or wholesaler of alcoholic beverages must obtain a permit from the Division before engaging in business. These permits, once obtained, cannot be revoked except for cause and after notice and hearing. The denial of a permit or a revocation thereof may be appealed administratively to the Commissioner of Internal Revenue or directly to the appropriate United States court of appeals.

A permittee must submit to the most detailed controls and regulations by the Division after he has begun business. For example, the manufacturer of a lipstick or a hair tonic containing alcohol must submit to the Division the formula for manufacture of his product. This formula will then be analyzed by Division chemists to determine whether the product will be safe for consumers to use and whether sale of the product will result in the loss of federal revenue. Then the manufacturer must submit his labels, advertising matter, and the like to the Bureau for approval. Every time the product or the manner of labeling it is changed in any way, approval of such change must be obtained in advance from the Division.

Violations by permittees of the Federal Alcohol Administration Act or of provisions of the Internal Revenue Code relating to alcohol are punished either by the imposition of money penalties, customarily denominated as additional taxes, or by suspension or revocation of the violator's permit. On occasion, criminal prosecution of a permittee may be recommended. In such cases, the Division policy has generally been not to accept offers in compromise of criminal liability, nor to accept offers in compromise of violations justifying permit revocation. Important and difficult criminal and permit revocation cases are referred to the Department of Justice for processing and consideration; however, most criminal cases arising under these statutes are referred directly by field offices of the Division to the various United States Attorneys.

Where money penalties are exacted in cases involving Internal Revenue Code violations, the customary procedure is for the Division to assess a large and sometimes unrealistic sum as an additional tax. This assessment is then compromised by the permittee who tenders a lesser amount by way of atonement for his offense. For example, a winemaker who uses brandy in the manufacture of wine does not pay the customary $10.50 per proof gallon tax on the brandy so used. If, however, he violates Division regulations in the course of manufacturing the wine, the Division may assess the full tax on the brandy so used. The winemaker may then submit a formal offer in compromise, usually in an amount far less than the proposed assessment. If the offer is accepted, the assessment is canceled and the winemaker resumes his business. The amount offered in compromise of the assessment must be regarded by the Division as being commensurate with the gravity of the offense and the previous record of the violator.

The offer in compromise is usually submitted to the Director of Internal Revenue in whose district the permittee does business; it is then reviewed by the local Division office and transmitted to Division headquarters in Washington with a recommendation for acceptance or rejection. The matter is reviewed in the Division, by the office of the Chief Counsel, and ultimately by the Treasury. If the amount offered is deemed sufficient by the reviewing officials,

the violation is disposed of and the assessment of additional taxes is canceled. If the amount is regarded as insufficient, the offer is rejected, and the permittee may then submit a new offer in a larger amount.

It should be noted that this offer in compromise procedure is essentially the same as that employed in other Divisions of the Bureau when the taxpayer has insufficient assets to meet taxes assessed against him. Indeed, even the same forms are used. The difference here, however, is that the ability to pay is not ordinarily in issue, because the holder of an alcohol permit is bonded, and the proceeds of the bond are readily available to the Government.

Violations of the Federal Alcohol Administration Act are also customarily punished by the imposition of money penalties, the amount of which is ordinarily fixed after negotiations between the Division and the violator.

The amount of time consumed by these various offices of the Bureau and the Treasury in processing these offers in compromise must be considerable. In the last five years, 1,225 offers in compromise aggregating $240,935 have been accepted by the Division in respect of tax assessments of over $3,500,000. Whether punishment for violations of these statutes should be administered in this fashion is at least a question open for consideration; your subcommittee knows of no other federal law which is so administered.

As noted above, the tax assessments made after violations of the Internal Revenue Code and the penalties proposed for violations of the Federal Alcohol Administration Act are almost always far in excess of the amount which the Division will accept as satisfactory punishment. This means that in every case of a violation of federal law or Division regulations by a permittee, tremendous discretion is exercised by the Division as to the punishment to be meted out therefor. It is obvious that like amounts should generally be exacted from permittees for similar offenses. The subcommittee has not had a full opportunity to examine the Division's offer-in-compromise files, but the work done to date indicates the need for a careful study of this program and a thorough review of some of these compromise files.

It is clear from the foregoing that the Alcohol and Tobacco Tax Division is much more than a Division of the Bureau of Internal Revenue charged with the duty of collection of a particular kind of tax. It is a regulatory agency whose supervisory powers extend over a significant area of American industry. It may be that regulation of this industry is inescapably involved with enforcement of federal alcohol tax laws. On the other hand, the Treasury Department has concluded that the Division's responsibilities in respect of the Federal Alcohol Administration Act "can have no result other than to hurt, impede and confuse its [the Bureau's] principal mission of administering the internal revenue laws." When the Secretary of the Treasury recommended that the regulation of the liquor industry be undertaken by some "appropriate regulatory agency outside of the Treasury Department," the industry itself formally opposed such a change. No further action has been taken on this matter.

The subcommittee has not had an opportunity to consider the merits of this proposal or to ascertain whether the revenue collecting activities of the Bureau are in fact impeded by these regulatory responsibilities. It is apparent, however, that this is also a matter meriting further study by the Congress.

SECTION V

THE TAX DIVISION OF THE DEPARTMENT OF JUSTICE

The Bureau of Internal Revenue and the Tax Division of the Department of Justice share responsibility for the conduct of tax litigation. Limitations of time have kept the subcommittee from undertaking an exhaustive study of the functioning of the Tax Division. One question basic to the efficient administration of the revenue laws, however, has impressed the subcommittee as worthy of attention, to wit: Is the responsibility for conducting tax litigation properly divided between the Bureau of Internal Revenue and the Department of Justice?

A taxpayer against whom a tax deficiency or penalty has been proposed by the Bureau of Internal Revenue has two alternatives. He may pay the tax or penalty and file a claim for refund, or he may appeal the proposed deficiency to the Tax Court without prior payment.

Actions in the Tax Court are litigated by the office of the Chief Counsel for the Bureau of Internal Revenue. If either the taxpayer or the Bureau is dissatisfied with the result in the Tax Court, an appeal may be taken to the court of appeals, where the government is represented by the Tax Division.

Claims for refund are processed by the Bureau of Internal Revenue. After denial of a claim for refund, the taxpayer may sue for recovery in either the United States district court or the Court of Claims. Defense by the government of such suits is conducted by the Tax Division at both trial and appellate levels.

Actions in aid of tax collection, such as the enforcement of a tax lien, are conducted in the regular federal courts and are the responsibility of the Tax Division.

Both the Bureau and the Tax Division have the power to compromise any tax matter pending before them. The Bureau as a matter of policy never compromises a criminal case and does not consult the Department of Justice before compromising a civil case. Although the opinion of the Bureau is obtained whenever a compromise is proposed in the Tax Division, the ultimate decision rests with the Department of Justice alone.

The Bureau of Internal Revenue initiates tax evasion cases and conducts all necessary investigation. Present procedures in criminal cases are described in section II of this report. Actual prosecution, if recommended by the Bureau and approved by the Tax Division, is conducted by the office of the appropriate United States Attorney under supervision of the Tax Division.

The general question of the appropriateness of this division of responsibility and authority between the Bureau and the Tax Division carries with it several particular problems.

A decision whether to litigate, appeal, or compromise a particular tax case can be reached only by application of general litigation policies. Where, as today, court dockets are too crowded to accommodate all otherwise appropriate cases, selection of cases to be litigated or appealed must be made with a view to the greatest possible strengthening of the revenue laws. As seen above, no case is litigated unless a decision to litigate is first made in the Bureau and then is remade by the Department of Justice. This veto power of the Tax Division over Bureau decisions to litigate gives it indirectly a power to nullify any Bureau policy in favor of litigation. Similarly, though the Bureau is consulted by the Tax Division during consideration of a possible appeal, the ultimate decision whether or not to appeal lies with the Department of Justice, giving it further control over policy. It is open to question whether the Department of Justice is the proper agency thus to formulate tax litigation policy.

The subcommittee is unaware of the existence of any mechanism for policy coordination between the Bureau and the Tax Division. Accordingly, even if the Tax Division cannot be said to have a veto power over the Bureau's litigation policies, a large risk of inconsistency in the policies of the two departments must exist.

The problem is well illustrated by the present status of the so-called health policy, discussed in section II of this report. The Bureau has announced abandonment of the health policy; the Tax Division merely states that it has the question under consideration. A determination by the Bureau no longer to decline prosecution of tax evaders for reasons of health is unavailing if the Tax Division continues to take the defendant's health into consideration in redetermining the appropriateness of prosecution after recommendation thereof by the Bureau. The need for closer coordination between the two departments is thus apparent.

While federal court dockets remain crowded, someone must select for litigation the cases of greatest public moment. At present the Department of Justice determines both what fraction of available court time shall be devoted to tax litigation and, within such limits, what tax cases to present. The criteria employed by the Tax Division in making these important decisions doubtless can be determined by discussions with Division officials and by examination of records of the disposition of cases proposed for litigation by the Bureau of Internal Revenue. Particular attention should be paid to the possibility that such decisions are unduly influenced by non-tax considerations arising out of the concern of the Department of Justice with many important objectives other than the efficient raising of revenue. After such a study, recommendations as to the proper roles of the Bureau and the Tax Division in the formulation of tax litigation policy would be possible.

Section II of this report has discussed recent efforts to reduce the multiplicity of reviews within the Bureau of proposals for criminal prosecution. The question remains open whether unduly repetitious reviews are not presently accorded criminal cases in the Tax Division or civil cases within both the Bureau and the Tax Division. A further question is raised by the division of responsibility for litigation discussed herein. It may be that successive reviews of precisely the same issues by both the Bureau and the Tax Division represent wasteful,

time-consuming duplication of effort. Delay due to duplication of work in the two departments would increase the risk of bar of action by the statute of limitations as well as impose an undue burden on the honest taxpayer whose chief objective is to see his tax problem settled expeditiously.

Time limitations and the urgency of the subcommittee's other activities have prevented the investigation necessary for the subcommittee to form an opinion on the questions discussed in this section.

SECTION VI

REORGANIZATION PLAN NO. 1 OF 1952

When the Bureau of Internal Revenue was created in 1862, provision was made for local administration by Collectors of Internal Revenue to be appointed by the President, subject to Senate approval. Demands upon the time and technical abilities of Collectors grew in proportion to the expanding activities of the Bureau following enactment of income tax legislation in 1913. The further expansion of the scope and significance of federal taxation during World War II rendered the political nature of the position of Collector of Internal Revenue a palpable anachronism.

The Collectors' offices had become big business, annually processing some 80 million tax returns and collecting upwards of $60 billion in taxes. Collectors had also taken over a portion of the audit, enforcement and conference work previously performed in the other field offices of the Bureau. A Collector now needed to be an expert in clerical administration, personnel matters and tax law, and, above all, an honest and loyal public servant.

After investigations by this subcommittee had disclosed how far short of these standards some recent Collectors had fallen, the post of Collector of Internal Revenue was in effect placed under civil service by adoption of Reorganization Plan No. 1 of 1952.

A. SUBCOMMITTEE INVESTIGATION OF COLLECTORS' OFFICES

One of the first tasks to which the subcommittee addressed itself was a review of investigative reports of misconduct by Bureau employees. It soon became apparent that an investigation of a number of Collectors of Internal Revenue was required. These investigations have resulted in the removal or resignation of nine Collectors since the spring of 1951.

In the selection of Collectors, political considerations were often allowed to take precedence over the needs of the office. For example, in one state the party organization forced the replacement of a competent incumbent Collector of Internal Revenue by a new man, despite discovery by Bureau investigators that the new appointee was a tax evader. Subsequently, as a result of the self-policing program undertaken by the Bureau at the behest of your subcommittee, this new Collector was shown to have resumed tax evasion while in office, and was dismissed.

Collectors thus chosen proved in a number of cases to be unsuited for office. Two of the nine Collectors separated from service had extorted large sums from delinquent taxpayers. Several evaded personal income taxes while in office and at least one Collector used his authority to prevent audit of his returns. The total confusion which

reigned in the office of two Collectors demonstrated their incompetence as administrators.

Study of Bureau reports on specific offices demonstrated also that the Bureau was apparently unable to control the Collectors, or to demand the institution of reforms to which the Collector was opposed. Field investigations by this subcommittee disclosed that in a number of these offices conditions had been allowed to deteriorate without corrective action for periods as long as 16 years, because Bureau officials were unwilling to offend the politically appointed Collectors.

It became clear to the subcommittee from these cases that the system of political appointment of Collectors of Internal Revenue could no longer be depended upon to select the best men for these important offices. A new way of filling these posts had to be found.

B. THE REORGANIZATION PLAN

For many years a number of responsible groups had recommended a change in the manner of appointment of Collectors of Internal Revenue. Legislation to this effect was introduced periodically in Congress but was never enacted. However, after the disclosures made during the past year concerning the character and fitness of a number of Collectors, the President proposed Reorganization Plan No. 1 of 1952. This plan was thereafter approved by the Congress and went into effect March 14, 1952.

Under the Plan, the office of Collector of Internal Revenue is abolished, and the operations of the Bureau of Internal Revenue largely decentralized. Field operations are now under the control of officials known as District Commissioners, whose functions are roughly those of the Commissioner of Internal Revenue within their districts. Serving under each District Commissioner are one or more Directors of Internal Revenue, who have taken over the functions and responsibilities of most of the former field officials of the Bureau. All Bureau employees except the Commissioner of Internal Revenue are now covered by civil service. The Washington office of the Bureau will now become essentially a headquarters office with main responsibility for planning and over-all supervision of operations.

The subcommittee has approved Reorganization Plan No. 1 of 1952 as an appropriate means of taking the Bureau of Internal Revenue out of politics. It is too early to tell how well the other changes made under the Plan will work out. After the Bureau has had a fair opportunity to try out these new procedures, the Congress may find it desirable to inquire into the effectiveness of the reorganized Bureau as the administrator of the federal tax system.

SECTION VII

LEGISLATIVE AND ADMINISTRATIVE RECOMMENDATIONS

This report has emphasized that preservation of the self-assessment system of taxation requires maintenance of public confidence in the honesty and impartiality of revenue collection. Taxpayers must be given no reason to suspect that any person can escape his fair share of the burden of taxation either through deficiencies in the tax statutes or through corrupt administration.

In its public hearings this subcommittee has exposed some instances in which individuals connected with tax administration have in recent years fallen below these standards. It is hoped that this evidence of congressional vigilance to preserve the generally high quality of revenue administration will increase public confidence therein.

Earlier sections of this report have described specific procedural changes introduced or now proposed to remedy some of the unsatisfactory conditions disclosed in the subcommittee's hearings. Effective administration under these changed procedures should go far to prevent recurrence of abuses and thus to eliminate risk of loss of public faith in the federal revenue system.

In concluding this report, the subcommittee now wishes to suggest certain other proposals designed to improve revenue administration.

A. BUREAU PERSONNEL

The keystone of good revenue administration is the quality of personnel. The subcommittee desires to express its belief that the vast majority of employees of the Bureau of Internal Revenue are honest, competent, and hard working. Much of the subcommittee's activity has been directed toward disclosing misconduct on the part of certain Bureau employees, but it must be emphasized that the persons involved constituted a very small percentage of the total Bureau staff.

Attraction of high quality personnel to the revenue service requires compensation at all levels comparable to earnings by persons of like caliber in private enterprise. Adequate compensation further improves revenue administration by reducing the temptation to indulge in corrupt practices. The subcommittee believes that many Bureau employees are underpaid at present, particularly those of whom high demands are made for technical and administrative skills, and recommends an upward revision of salaries for such persons.

Maintenance of high employee morale and ethical standards in the Bureau requires in all personnel matters the avoidance of even the appearance of partiality or political intervention. Capable employees will not stay long in service if their only hope of promotion is through political influence. Moreover, an employee who owes his position to outside help is necessarily not a free agent in handling tax

matters in which his protectors have an interest. Accordingly, the subcommittee urges that all appointments and promotions in the Bureau of Internal Revenue be made strictly on a genuine merit basis.

Understaffing of the Bureau would also adversely affect employee morale, as well as reduce the efficiency and quality of administration. The number of taxpayers, the volume of collections, and the complexity of tax problems have increased manyfold in the past decade. Your subcommittee has concluded that an increase in the number of certain types of Bureau personnel, particularly in enforcement work, would be desirable and productive of revenue.

B. CORRUPTION AND TAX EVASION

Specific remedies to eliminate corruption in the Bureau of Internal Revenue have been discussed in the section of this report concerning self-policing. A second way to reduce possible corrupt practices in the Bureau is to minimize the opportunities and temptation. For example, under a leading judicial decision, a taxpayer who claims large business deductions but has not kept any records to substantiate the claim is entitled to a reasonable allowance for the claimed expenses, which must be estimated by the Revenue Agent. Stricter requirements for keeping of reasonably detailed records by taxpayers would eliminate the necessity for discretionary determination of the proper expense deduction, and with it, any possible temptation for the Revenue Agent to allow an improperly large deduction in exchange for some private benefit extended to him by the taxpayer.

This record-keeping proposal, aside from its tendency to eliminate opportunities for corruption in the Bureau, should reduce the risk that the great multitude of taxpayers who have no substantial business deductions may feel that some persons having such opportunity to claim deductions are not paying their fair share of taxes.

Similarly, a requirement that taxpayers disclose the nature and source of their income would aid materially in the enforcement of the tax laws against racketeers and others of like character who conduct their affairs in cash and keep no records of income and expenses.

Recent high tax rates have resulted in attempts by some business organizations to reward key personnel with tax-free personal benefits. These may take the form of free automoblies, airplanes, vacations, housing, or servants, all theoretically for the benefit of the employer. Of like character is the practice of allowing overly liberal expense accounts to employees whose duties involve travel or business entertainment; sometimes the employer may tolerate padding of the expense account by the employee as a way of giving him tax-free income. The opportunity for a limited segment of the taxpaying population to receive such tax-free benefits jeopardizes public confidence in the impartial imposition of taxes. As a basis for possible legislation, the subcommittee recommends that definite information be obtained as to the prevalence of these practices and as to the amount of revenue lost thereby. Your subcommittee has been advised that the Treasury Department will obtain these statistics and report to the Congress on the problem.

C. PUBLICATION OF DECISIONS

Much information supplied by taxpayers to the Bureau of Internal Revenue is kept confidential to avoid possible embarrassment or competitive disadvantage to the taxpayer. Consistent with this laudable policy, however, the Bureau should make public as many as possible of its administrative decisions. Their availability to public scrutiny should serve as a deterrent to favoritism and enable the public to satisfy itself as to the impartiality of tax administration. The Bureau recently opened to the public its offer-in-compromise files, and also the files of the Alcohol and Tobacco Tax Division relating to issuance of basic permits. At the instance of the subcommittee, the Bureau has adopted a new policy of publishing in permanent form all decisions and rulings involving points of law upon which the Bureau will thereafter rely as precedents.

D. OTHER LEGISLATIVE RECOMMENDATIONS

During the course of its work, your subcommittee's attention was directed to numerous instances where legislative action is necessary in order to resolve ambiguities existing in present law and to eliminate technical and administrative difficulties. H. R. 7893, a bill unanimously approved by the subcommittee and introduced in the House by its chairman, represents, in part, an attempt to satisfy this need. Certain of the recommendations made throughout this report were embodied in the bill.

In particular, an attempt was made in the drafting of the bill to provide for the simplification of certain administrative procedures relating to the computation of interest on tax refunds, the definition of limitations of time in which suits for refund may be brought, and other similar adjustments. The subcommittee recommends consideration of these matters by your committee as a further means of improving revenue administration.

During the course of the hearings before this subcommittee, inquiry was made as to appearances by Members of Congress in matters pending before government departments, bureaus, and agencies and the receiving of compensation for such services. The subcommittee has found that there has existed considerable misunderstanding and conflict of opinion among Members of Congress and law enforcement officials as to whether such activities are prohibited by Title 18, United States Code, Section 281. Indeed, even within the Department of Justice, responsible officials have apparently been in disagreement as to the meaning of this section. In view of this seeming uncertainty, the subcommittee has proposed a rephrasing of the existing statute. The subcommittee has taken no formal action on any case concerning which testimony was given to the subcommittee in which Section 281 might have been applicable, and intends to take no such action.

Since the Congress adjourned, your subcommittee has continued conferences with representatives of the Bureau of Internal Revenue, the Department of the Treasury, the Joint Committee on Internal Revenue Taxation, and the Department of Justice with respect to the matters contained in H. R. 7893. As a result of these conferences, a revised bill has been prepared by the subcommittee, which will be available for your consideration.

E. TREASURY-BUREAU RELATIONS

At the present time the Bureau of Internal Revenue is attached to the Department of the Treasury, and Treasury officials have general authority over Bureau policies and operations. Bureau activities are limited to revenue administration, while the Treasury Department is concerned with the broader aspects of fiscal policy. This difference in objective necessarily gives rise to friction within our revenue system.

The subcommittee, therefore, suggests that consideration be given to the question whether it would be advisable that the Bureau of Internal Revenue be made an independent agency.

F. CONCLUSION

With this report the subcommittee concludes the work of almost two years of investigation of the administration of the internal revenue laws. During this period, significant changes in personnel and procedures in revenue administration have taken place. The entire Bureau of Internal Revenue has been reorganized, and the foundation established on which a truly blue-ribbon revenue system can be built. Your subcommittee is proud of its part in achieving these reforms. The multitude of the problems encountered, however, has not permitted the subcommittee to make as thorough an investigation of all matters as is desirable.

CECIL R. KING, *Chairman.*
THOMAS J. O'BRIEN
J. M. COMBS
EUGENE J. KEOGH
ROBERT W. KEAN
CARL T. CURTIS
JOHN W. BYRNES

APPENDIX A

RULES OF PROCEDURE

SUBCOMMITTEE ON ADMINISTRATION OF THE INTERNAL REVENUE LAWS

1. No major investigation shall be initiated without approval of a majority of the subcommittee. A preliminary report upon any case based upon information from available sources not requiring assignment of investigative staff to field inquiry shall be made upon the request of any two members of the subcommittee.

2. Public hearings shall be held only with the approval of a majority of the subcommittee. Executive sessions shall be held at the call of the chairman.

3. Attendance at executive sessions shall be limited to members of the subcommittee and of the staff and such other persons whose presence is requested or consented to by the subcommittee.

4. An accurate stenographic record shall be kept of the testimony of all witnesses in public and executive hearings. Any witness may have a stenographic transcript of his testimony at cost.

5. All evidence received in executive hearings shall be secret. It shall not be released without the approval of a majority of the subcommittee, except as provided in Rule 9.

6. Any witness summoned at a public or executive hearing, unless the subcommittee by a majority vote determines otherwise, may be accompanied by counsel who shall be permitted while the witness is testifying to advise him of his rights. Counsel shall not testify or make any statement without consent of a majority of the subcommittee present.

7. In a public hearing any person who is the subject of an investigation may at such hearing cross-examine witnesses giving testimony relating to him by submitting questions in writing to the chairman. Such of these questions as may be consented to by a majority of the subcommittee present will be put to the witness by a member of the subcommittee or by a member of counsel to the subcommittee.

8. Any person who believes that testimony or other evidence given in a public hearing tends to defame him or otherwise adversely affect his reputation may file with the subcommittee his sworn statement, concerning such testimony or other evidence, which shall be made a part of the record of such hearing. Such person may testify in person before the subcommittee with the consent of a majority of the subcommittee.

9. No subcommittee report shall be made without the approval of a majority of the subcommittee, provided, however, that at the time any

such report is made, one or more members of the subcommittee may make reports supplementary to or dissenting from the majority report. Evidence received in executive hearings may be included in any such report.

10. No summary of a subcommittee report, prediction of the contents of such report, or statement of conclusions concerning any investigation prior to a subcommittee report thereon, shall be released by a member of the subcommittee or of the staff prior to the issuance of the report of the subcommittee. Any member of the subcommittee, however, may, at any time, make statements concerning the subcommittee or its activities to the Ways and Means Committee of the House of Representatives sitting in executive session.

11. No member of the subcommittee or of the staff shall publish or release any report or statement alleging misconduct by any person in any matter under investigation by the subcommittee unless and until such person has been advised of the alleged misconduct and has been given a reasonable opportunity to present to the subcommittee his sworn statement with respect thereto.

12. No member of the subcommittee or the staff shall, for compensation, publish any article or deliver any speech or lecture concerning the subcommittee or its activities while such person is a member of the subcommittee or the staff.

13. For the purpose of taking sworn testimony at public or executive hearings two members of the subcommittee shall constitute a quorum under the provisions of House Resolution 78, Eighty-second Congress, first session. However, if the chairman and the ranking minority member of the subcommittee so agree, one member of the subcommittee shall constitute a quorum for such purpose at any particular hearing.

14. All witnesses at public or executive hearings shall be sworn.

15. Subpenas may be issued by the chairman of the subcommittee or by any other member of the subcommittee specifically authorized by the chairman.

APPENDIX B

CHRONOLOGY OF IMPORTANT EVENTS IN HISTORY OF SUBCOMMITTEE

January 27, 1948—Report published by the Special Advisory Group to the Joint Committee on Internal Revenue Taxation of the Congress, relating to improvement in revenue administration.

February 3, 1948—Report on investigation of the Bureau of Internal Revenue made by staff of the Committee on Appropriations of the House of Representatives.

July 12, 1950—Subcommittee on Administration of the Internal Revenue Laws established in Eighty-first Congress by the Committee on Ways and Means, under the chairmanship of Walter A. Lynch of New York.

November 29, 1950—Subcommittee decided to seek subpena power.

December 13–20, 1950—Executive session hearings in Washington with top Bureau officials.

December 27 and 28, 1950—Executive session hearings in New York concerning the office of the Collector of Internal Revenue for the third district of New York.

January 13, 1951—Subcommittee reconstituted by Eighty-second Congress with Cecil R. King, of California, as chairman. Other members: Thomas J. O'Brien of Illinois, J. M. Combs of Texas, Eugene J. Keogh of New York, Robert W. Kean of New Jersey, Carl T. Curtis of Nebraska, and John W. Byrnes of Wisconsin.

February 2, 1951—House Resolution 78 passed, authorizing investigation by subcommittee and giving it subpena and other powers.

March 14, 1951—House Resolution 153, appropriating $50,000 to begin the investigation, passed.

March 20, 1951—Executive session hearings began with top Bureau officials in Washington.

April 4, 1951—James P. Finnegan resigned as Collector of Internal Revenue for the first district of Missouri.

May–June 1951—Hiring of professional and investigative staff of subcommittee.

July and August 1951—Review of Bureau and Treasury files by staff. Work begun by staff on a net worth questionnaire for submission to Bureau employees.

July 16, 1951—Denis W. Delaney removed from office as Collector of Internal Revenue for the district of Massachusetts.

August 1951—Joint investigation begun by subcommittee and the Bureau of Internal Revenue of the income tax returns and activities of various high Bureau officials.

August 1, 1951—John B. Dunlap became Commissioner of Internal Revenue.

August 8, 1951—James B. E. Olson resigned as District Supervisor, Alcohol Tax Unit, District 2, New York and Puerto Rico.

August 17, 1951—Monroe D. Dowling succeeded James W. Johnson as Collector of Internal Revenue for the third district of New York.
September 10–12, 1951—Public hearings in New York, mainly concerning Olson.
September 13, 1951—Joseph D. Nunan, Jr., Commissioner of Internal Revenue, 1944–47, testified in executive session.
September 27, 1951—House Resolution 433, appropriating an additional $150,000 for the investigation, passed.
October 1, 1951—Inspection Service of the Bureau of Internal Revenue created.
October 3, 1951—Commissioner Dunlap testified before the subcommittee in public session and announced that all Bureau employees' tax returns would be audited.
October 3, 1951—Former Collector of Internal Revenue James P. Finnegan testified before the subcommittee in public session.
October 10, 1951—Secretary of the Treasury John W. Snyder testified in public session and announced that the Treasury would agree to the net worth questionnaire proposed by the subcommittee.
October 16, 1951—Public sessions began with respect to conduct in office of former Collector of Internal Revenue Denis W. Delaney.
October 16, 1951—A number of Internal Revenue Agents from the New York area testified before the subcommittee in public session.
October 18, 1951—Staff investigation of internal revenue administration in San Francisco begun.
October 23, 1951—Joseph P. Marcelle resigned as Collector of Internal Revenue for the first district of New York.
October 25, 1951—First testimony in public session of Marcelle.
October 31, 1951—Lipe Henslee resigned as Collector of Internal Revenue for the district of Tennessee.
November 1, 1951—Assistant Attorney General T. Lamar Caudle testified before the subcommittee in executive session.
November 7, 1951—Special Board of Inquiry and Review created by Treasury Department to investigate handling of tax fraud cases.
November 16, 1951—Assistant Attorney General Caudle removed from office by the President.
November 19, 1951—Daniel A. Bolich resigned from the Internal Revenue Service.
November 26, 1951—T. Lamar Caudle began public testimony.
November 26, 1951—Abraham Teitelbaum of Chicago testified in public session.
November 29, 1951—James G. Smyth dismissed as Collector of Internal Revenue for the first district of California.
December 5, 1951—Charles Oliphant resigned as Chief Counsel for the Bureau of Internal Revenue, and then testified in executive session.
December 7, 1951—Treasury Department revised regulations relating to tax practitioners, to require periodic re-enrollment.
December 11, 1951—Attorney General J. Howard McGrath testified in public session.
December 11, 1951—Abandonment of health policy announced by Commissioner Dunlap.
December 12, 1951—First testimony by Henry W. Grunewald in executive session.
December 13, 1951—Public hearings concerning Oliphant's conduct in office begun.

December 21, 1951—First testimony by Henry W. Grunewald in public session.

January 8, 1951—Revised procedure for handling tax fraud cases announced by Secretary of the Treasury.

January 10, 1952—Secretary of the Treasury ordered abandonment of the voluntary disclosure policy.

January 14, 1952—The President submitted Reorganization Plan No. 1 of 1952 to Congress.

January 22, 1952—Public hearings with respect to the Reorganization Plan and various administrative matters begun.

January 30, 1952—Reorganization Plan No. 1 of 1952 approved by the House.

February 5, 1952—Public hearings begun in San Francisco.

February 12, 1952—Frank Scofield resigned as Collector of Internal Revenue for the first district of Texas.

March 13, 1952—Reorganization Plan No. 1 of 1952 approved by the Senate.

March 17, 1952—Effective date of resignation of Monroe D. Dowling, Collector of Internal Revenue for the third district of New York.

March 19, 1952—Public sessions begun concerning financial affairs of several Internal Revenue Agents.

March 20, 1952—Public hearings concerning Henry Grunewald begun.

March 21, 1952—Public hearings on the Hyman Harvey Klein matter begun.

April 2, 1952—Members of the Special Board of Inquiry and Review, appointed by Commissioner Dunlap to investigate the handling of certain tax fraud cases, testified in public session.

April 3, 1952—First testimony by Daniel A. Bolich in public session.

April 23, 1952—Public hearings begun with respect to former Commissioner Nunan and former District Supervisor Olson.

May 12, 1952—Subcommittee formally demanded the Oliphant log from the Treasury Department.

May 16, 1952—H. R. 7893 introduced by Chairman King.

May 26, 1952—Public hearings on H. R. 7893 begun by the Committee on Ways and Means.

July 2, 1952—House Resolution 686 passed by the House, appropriating $50,000 to continue the investigation.

July 11, 1952—Ernest E. Killen resigned as Collector of Internal Revenue for the district of Delaware.

August 11, 1952—Reorganization of the Washington headquarters of the Bureau of Internal Revenue reported completed.

November 18, 1952—Oliphant log received from the Department of Justice.

December 1, 1952—Reorganization of field offices of Bureau of Internal Revenue reported completed.

December 2, 1952—Subcommittee began consideration of the proposed draft of its report.

December 5, 1952—Testimony in executive session by John L. Graves, Chairman of Committee on Practice, Treasury Department; George W. Ingling, Special Advisor, Intelligence Division, Bureau of Internal Revenue; and Allison Rupert, Attorney for the Government before the Committee on Practice.

December 18, 1952—Subcommittee's report completed.

APPENDIX C

EXCERPTS FROM "RULES OF CONDUCT AND OTHER INSTRUCTIONS FOR EMPLOYEES OF THE INTERNAL REVENUE SERVICE"

March 1952

* * *

6. *Employees must not recommend tax accountants or attorneys or firms.*—No employee should suggest or recommend, specifically or by implication, the employment of any attorney or accountant, or firm of attorneys or accountants, in connection with any official business which involves or may involve the Bureau. Also, employees may not recommend to taxpayers persons or concerns who perform services of a kind required by the Bureau, such as printing forms, etc.

* * *

9. *Conference with disqualified agents or attorneys is cause for suspension or dismissal.*—All revenue employees will be held strictly responsible for the scrutiny and acceptance of the credentials presented at the time of appearance. Recognizing and holding conferences with persons known to be disqualified is cause for suspension or dismissal from the Service.

* * *

19. *False claims against United States.*—The Criminal Code provides a severe penalty for making or presenting false, fictitious, or fraudulent claims with the intent of cheating and swindling or defrauding the Government. A false or inaccurate statement as to travel performed, work done, or amounts expended will be grounds for dismissal from the Service.

* * *

23. *Outside employment restricted.*—No internal revenue employee may engage in any outside employment or business without having first obtained *written* permission through his supervisory officer from his field officer in charge or, in the case of departmental service employees, the employee's deputy commissioner or head of division. Written permission is required even though the employment does not involve any salary or other form of compensation. Likewise, written permission must be obtained concerning interest in any business in which an employee is to take any active part or is to serve as an officer, even though no compensation attaches to such interest or office.

No employee may engage in outside employment which has a direct or material bearing on a taxpayer's tax liability. Also, permission will generally be denied for an employee to engage in bookkeeping, ac-

counting, valuation, or legal work; applications for exceptions will contain a complete statement of facts and will be referred, with the recommendation of the supervisory officer through channels to the Bureau for decision. Employees may not engage in any type of outside employment in which their personal interests may conflict with their official responsibilities. Applications of employees for permission to accept employment in connection with the sale of liquor will be denied. Permission will not be granted to accept or solicit orders for insurance; nor to sell or promote any type of service or investment or real estate; nor to sell stocks or bonds; nor will permission be granted for an employee to engage in any type of business activity where an employee's official position might influence or affect a taxpayer's action; or where the nature of employment or the hours of duty appear likely to impair the employee's availability, capacity, or efficiency for the performance of his official duties. Applications of employees to teach or lecture on subjects involving accounting or Federal tax law or regulations will be referred, with the recommendation of the supervisory officer, through channels to the Bureau for decision. No revenue employee may appear for, with, or in behalf of any taxpayer as his attorney, agent, factor, or representative before any governmental agency—Federal, State, or local. The foregoing restrictions are not intended to discourage normal participation in local civic activities which are not in conflict with the Hatch Act.

24. *Employees must not officially indorse private enterprises.*—Employees of the Service must not officially indorse or aid in the promotion of any private commercial enterprise.

* * *

26. *Compensation in addition to salary unlawful.*—All Government employees are forbidden by law to accept from any source other than the Government of the United States any salary or other compensation for any service rendered in connection with their official duties, except such as may be contributed out of the treasury of a State, county, or municipality.

* * *

28. *Association with gamblers, racketeers, and other persons of ill repute.*—Employees are expected to exercise the utmost discretion concerning their associations with persons outside the Service. While it is not desired to place undue restrictions on the private lives of employees, the Bureau must insist that its employees avoid unofficial association with persons of ill repute, particularly gamblers, racketeers, and the like, as such associations tend to reflect discredit upon the Service.

In this connection, employees are particularly warned to avoid, directly or indirectly, the *unofficial* or *private* preparation of Federal, State, or municipal tax returns for individuals commonly reputed to be engaged in illegal activities, or to have any financial transactions with such persons.

29. *Financial transactions.*—Employees must avoid all business or financial transactions with taxpayers having cases pending before the Bureau or field offices with which such employees have an official connection. Every situation should be avoided which involves any financial consideration between an employee and such taxpayers or their representatives.

30. *Indebtedness—Lending or borrowing of money.*—Frequent or habitual borrowing or lending of money between employees, particularly in large sums, is prohibited. Employees who, without just cause persistently refuse or habitually neglect to pay personal and family debts will be disciplined.

31. *Use of intoxicating liquors.*—The use of intoxicating liquor, in such a way as to bring discredit to the employee and to the Bureau, shall be dealt with as the circumstances of the particular case may warrant. Intoxication while in the performance of duty may be a cause for immediate dismissal.

* * *

33. *Speculation prohibited.*—Employees are prohibited from speculating in stocks, bonds, or commodities. The purchase of securities or commodities as a *bona fide* investment is generally permissible, but employees shall not use confidential official information as a basis for making investments.

* * *

35. *Receipt of gifts or favors.*—No officer or employee shall ask or receive for himself or any other person any present, emolument, pecuniary favor, service, or any other thing of value from any person or organization under circumstances which may reasonably give rise to an inference that the proffer is made with the hope or expectation of obtaining advantage or preferment in dealing with the Internal Revenue Service for any purpose. Employees are particularly forbidden to solicit or accept gifts, favors, or gratuities from taxpayers or their representatives while currently connected with such persons' tax matters. "Favors" may include many things other than money, such, for instance, as positions for relatives or friends; tips on horse races or stocks; free trips on boat or other transportation lines; accommodations at hotels or clubs; tickets for theaters, prize fights, etc. Whether such favors are accepted during periods of leave or after office hours, does not in the least lessen the offense.

* * *

37. *Political activity prohibited.*—Officers and employees of the Treasury Department are required to observe strictly the provisions of the Hatch Act and the Civil Service rules pertaining to political activity, as well as departmental regulations on this subject. [Particular forbidden acts listed.]

* * *

60. *Resignation of attorneys or agents enrolled to practice before the Treasury Department.*—Each person enrolled to practice before the Treasury Department is required immediately upon accepting employment in the Internal Revenue Service to address a communication to the Committee on Practice requesting that his name be placed on the inactive list during such time as he may be employed by the Department. This communication should be forwarded through the employee's officer in charge.

* * *

APPENDIX D

HEALTH POLICY CASES

The following six cases in which prosecution was declined illustrate administrative difficulties in application of a health policy. Each is an actual case in the files of the Bureau of Internal Revenue and the Department of Justice.

Section II of the report has discussed the difficulties faced by an attorney in the Bureau or Tax Division in evaluating medical evidence concerning the taxpayer's health. Cases 1 and 2 illustrate the frequent attempt by an accused taxpayer to offset the report of a government doctor recommending prosecution by a later report of a private physician engaged by the taxpayer. In Case 3 a conflict of opinion between government doctors presented the Tax Division with an even more difficult choice. The quoted medical opinion in Case 4 is an example of difficulty in precise diagnosis, leaving in doubt the predictable effect of a trial on the defendant's health.

Cases 5 and 6 represent extensions of the health policy beyond concern for the life of the actual defendant. In Case 5 one of two co-defendants was not prosecuted because prosecution of the other had been declined under the health policy. In Case 6 the fear that jury sympathy for the defendant's physical condition would reduce chances of success resulted in the decision not to prosecute.

Case 1

After an examination requested by the Bureau, the Public Health Service doctor advised that while the taxpayer had suffered from mental illness previously, he was now in excellent physical and mental condition. In the doctor's opinion, the taxpayer was in fit condition to attend court proceedings, understand the nature of criminal proceedings, and be able to assist his counsel in his own defense. After the case was recommended to the Department of Justice for prosecution, a private psychiatrist was selected to make another examination. On the basis of his report that criminal prosecution would endanger this taxpayer's life, the Department of Justice declined to prosecute.

Case 2

At the request of the Bureau, the taxpayer was examined at a United States Marine Hospital. The doctor's report stated, "The subject is in fit mental condition to attend court, understand the nature of criminal proceedings, and be able to assist counsel in his defense." Later the United States Attorney appointed a private doctor to examine the taxpayer. The second doctor's report was to the effect that the taxpayer was mentally ill and might very well commit suicide if prosecuted. The Department of Justice indicated that had the taxpayer's mental condition been known earlier, the cause would not

have been referred for prosecution, and further action on the case was then declined. The Bureau of Internal Revenue's examination was completely ignored.

Case 3

The taxpayer, who had an ulcer, was examined at the request of the Bureau of Internal Revenue by a doctor of the United States Public Health Service. The doctor reported that court action would do considerable harm to the taxpayer and was inadvisable, but that he would survive the ordeal of a trial. The taxpayer's case was referred to the Department of Justice for prosecution. The United States Attorney then obtained a new physical examination by another Public Health Service doctor, who gave the opinion that criminal prosecution would likely be fatal to the taxpayer. The second doctor further stated that the taxpayer might commit suicide if prosecuted. Based on this opinion, and ignoring the prior physician's report, the Department of Justice declined to prosecute, although admitting that prosecution was justified on the merits.

Case 4

The issue of health was not raised by the taxpayer in the Bureau of Internal Revenue. After the case reached the Department of Justice, the attorney for the taxpayer argued that the taxpayer was a psychopath. The United States Attorney caused a psychiatric examination to be made, and this resulted in a report that the taxpayer was "psychopathic to the extent he rebelled against constituted authority and had suicidal tendencies." Based on this report, the Department of Justice declined to prosecute the taxpayer's case.

Case 5

The alleged tax fraud involved two partners, one of whom raised the question of health after the case reached the Department of Justice. A physical examination of this taxpayer by a doctor at the request of the Department of Justice showed that trial might be fatal to him because of a serious heart condition. The United States Attorney concluded that, since the health policy barred prosecution of the one partner, it would be unjust under the circumstances to proceed against the other partner alone.

Case 6

The Bureau recommended the prosecution of a taxpayer who had undergone a colostemy in childhood. Subsequently, a Public Health Service doctor advised that a trial would not endanger the taxpayer's life, but that changes of dressings might be required several times a day during the trial. At the suggestion of the Bureau, the Department of Justice then declined prosecution, on the theory that changes of dressings might evoke the sympathy of a jury and prevent successful prosecution.

APPENDIX E

VOLUNTARY DISCLOSURE CASES

The following ten fraud cases in which prosecution was declined illustrate administrative difficulties in applying a voluntary disclosure policy. Each is an actual case in the files of the Bureau of Internal Revenue.

The major problem in honest administration of the policy is to determine whether the taxpayer was induced to make his disclosure because he had knowledge that an active investigation was already under way. An inspection visit to the taxpayer by a Bureau representative is normally treated as terminating the right to make a voluntary disclosure. In Case A, the taxpayer was given the benefit of the policy when disclosures were made after an appointment for such a visit had been made. In Case B, an informer's letter had been received prior to the disclosure. The taxpayer in Case C, while under investigation, took fright at an unrelated event. The taxpayer's attorney in Case D claimed to have received instructions to make disclosures before the investigation was begun, though the disclosures were made thereafter. In Case E, disclosures with respect to certain tax years were treated as voluntary even though the taxpayer's earlier returns were already under active investigation to his knowledge.

In many cases taxpayers were treated as having made a voluntary disclosure solely because of inept administration by Bureau agents. Cases F and G, in particular, illustrate the Bureau's fear of being accused of having trapped the taxpayer into a disclosure. The taxpayer's escape from prosecution in Case H resulted from lack of coordination between Bureau agents.

The potentialities for collusion between the taxpayer and a corrupt field agent are shown in Cases I and J.

Case A

The Revenue Agent assigned to Case A contacted the taxpayer for an appointment. A conference was arranged, but was subsequently postponed by one of the taxpayer's representatives. About a week prior to the date of the postponed conference, the taxpayer's representatives conferred with the Special Agent in Charge and purportedly made a voluntary disclosure. This disclosure was accepted by the Special Agent in Charge as voluntary.

Case B

As a result of an informer's letter, the case was in the files for investigation. The taxpayer's representative thereafter called on a Special Agent and offered to make a voluntary disclosure. When advised that the case was in the files for investigation, the representative stated that no agents had as yet called on his client for purposes of investigation. However, another Special Agent had been investigating the taxpayer's transactions with a corporation in another state.

The Special Agent stated that the representative was too late as the investigation was under way. The representative, however, offered to make a disclosure stating he would argue later whether it was truly voluntary or not. The case was closed as a voluntary disclosure matter.

Case C

Information was secured by the Special Agent in Charge from check cashing agencies. A Revenue Agent then called at the offices of the corporate taxpayer asking to see the corporation's records, and was, ultimately, referred to the taxpayer's lawyer. The purpose of this examination, although not revealed to the taxpayer, was to obtain information relating to another taxpayer. An appointment was arranged with the lawyer. Prior to this appointment, the lawyer visited the Special Agent in Charge and proposed a voluntary disclosure. The Special Agent in Charge, in a memorandum to the file, stated that, since the office had already certain information about the taxpayer, he did not believe the proposed disclosure would be voluntary. The disclosure was made nevertheless, and the lawyer advised the Revenue Agent that a voluntary disclosure had been made. The investigation was continued for more than a year without any cooperation from the taxpayer or his lawyer. The case was treated by the Special Agent as a voluntary disclosure matter, in part because the taxpayer was not given official notice that the disclosures had not been accepted as voluntary.

Case D

The Revenue Agent assigned to Case D visited the taxpayer and commenced an investigation of his returns, but had to postpone the examination for about 3 months because of an intervening assignment. Subsequent to resumption of the investigation, the taxpayer's attorney made a disclosure. The attorney later claimed that the taxpayer had requested him to make the disclosure prior to the start of the investigation. The attorney claimed to have been delayed in making the disclosures by a trip to Europe and his other commitments. The case was treated as a voluntary disclosure matter on the theory that to penalize the taxpayer because of his attorney's delay was unfair.

Case E

A Deputy Collector contacted the taxpayer by letter regarding his 1942 and 1943 returns and an examination was commenced soon thereafter. The taxpayer's accountant discussed the irregularities in the taxpayer's books with the Deputy Collector. Later, the accountant delivered amended returns for 1944 and 1945, before the examination with respect to those years had been reached. The Special Agent reported that the taxpayer was uncooperative and that the taxpayer's wife, who had maintained the taxpayer's records, destroyed part of them during the course of the examination. Despite the lack of cooperation by the taxpayer, the case was treated as a voluntary disclosure matter.

Case F

The Revenue Agent assigned to Case F contacted the taxpayer's accountant for an appointment. Several appointments were made and broken before the agent finally visited the taxpayer's office. The

taxpayer's representative then wrote the Special Agent in Charge offering to cooperate fully. The Special Agent in Charge advised the representative that the case might be treated as a voluntary disclosure if full and complete cooperation was given. Thereafter the Special Agent assigned to the case reported extreme lack of cooperation on the part of the taxpayer and his representative. Ultimately, however, the case was closed as a voluntary disclosure matter, in part at least because of the commitment made by the Special Agent in Charge.

Case G

Investigation had been initiated by a Deputy Collector, who found that the taxpayer maintained insufficient records and that he had an increase in net worth substantially in excess of his reported net income. After the Deputy Collector and a Special Agent completed the examination, the taxpayer was requested to call at the office of the Special Agent in Charge. In an informal discussion after the close of the conference, the taxpayer's representative said that before the investigation had commenced, the taxpayer had engaged an accountant to prepare a corrected return. He suggested that this be considered equivalent to a voluntary disclosure. The Special Agent disagreed, but advised that if the taxes, penalties and interest were paid, he would recommend no prosecution, adding, however, that this recommendation might not be accepted. The Special Agent's report noted the taxpayer had neither agreed to nor paid the deficiencies as proposed, and recommended prosecution. The representative protested, contending that prejudicial material had been furnished because he believed that the case was to be handled as a voluntary disclosure matter. The case was so handled, in part because the Chief Counsel's office felt that to recommend prosecution would put the Bureau of Internal Revenue in the position of having broken its word.

Case H

After a Revenue Agent had examined records in the taxpayer's office intermittently over a period of two months, the taxpayer made a disclosure to a Special Agent, which was treated as voluntary. The Special Agent's office had failed to secure and consider the complete facts from the Revenue Agent's office, which was located only three blocks away. These facts would have indicated that the investigation had become active prior to the date of the alleged voluntary disclosure.

Case I

The Revenue Agent's office and the Special Agent's office had already begun active investigation before the Revenue Agent assigned to the case contacted the taxpayers. The taxpayers' representative then claimed that he had previously called on the Chief of the Income Tax Division of the local Collector's office to advise that the taxpayers desired to make a voluntary disclosure. This alleged meeting, inadequately recorded, had occurred about two and one-half months after the investigation had begun, but about one month before the taxpayers were contacted.

The case was treated as a voluntary disclosure matter. Subsequent investigation indicated that the tax practitioner and the Bureau employee involved had apparently made a practice of furnishing evidence

of alleged early disclosures of tax deficiencies prior to investigation by other Bureau agents. The Bureau employee has since been forced to resign.

Case J

This case arose as a result of an investigation of the check cashing activities of the taxpayers. The Revenue Agent contacted the taxpayers on August 5, and the following month amended returns were filed. The taxpayers' representative asserted that in July he had discussed voluntary disclosure with the Chief of the Income Tax Division of the local Collector's office, and had been advised to prepare the amended returns. The Chief of the Income Tax Division first stated this conference was held after August 5, but later said it had occurred before August 5.

The Special Agent's report indicated the conference was held after August 5. Because the Chief of the Income Tax Division submitted a written statement that he had discussed the alleged voluntary disclosure with the representative prior to the first visit of the Revenue Agent, the Special Agent recommended against prosecution.

The Chief of the Income Tax Division involved in this case was the same employee as in Case I.

APPENDIX F

ENROLLEE MISCONDUCT CASES

Section III of this report has described the investigation made by this subcommittee into the system of enrolling and supervising attorneys at law and certified public accountants acting as representatives of taxpayers before the Treasury Department. Summaries of 40 of these cases reviewed by the staff of this subcommittee are set forth in this appendix to illustrate the sorts of misconduct with which various enrollees were charged and the disposition made of the cases by the Treasury Department. Information as to present status of pending cases is given as of December 1952.

It is to be noted that many of the cases herein described might still be pending had it not been for the change in regulations in November 1951, automatically terminating all enrollments as of March 31, 1952, unless the practitioner reapplied for enrollment.

No. 1

No. 1 was charged with disreputable conduct as an enrollee in that he aided and abetted taxpayers to evade the income tax laws. In March 1948, No. 1, together with a client, was indicted on a charge of conspiring to file a false and fraudulent return for that client. The client died before the case came to trial and, therefore, on motion of the United States Attorney in April 1950, the conspiracy indictment against No. 1 was dismissed. Thereafter the Intelligence Division recommended to the Attorney for the Government that No. 1 be disbarred. The file reached the Attorney for the Government in May 1951. No. 1 was allowed to re-enroll in January 1952, without investigation or hearing. No disciplinary proceedings have been initiated against him.

No. 2

No. 2 was charged with evasion of his personal income taxes and with misrepresenting expenses incurred by one of his corporate clients in order to assist that client in evading its taxes. In August 1947, the Intelligence Division recommended to the Attorney for the Government that No. 2 be disbarred. Thereafter the state bar association instituted disciplinary proceedings against No. 2; these were held in abeyance pending a determination of the criminal tax fraud case against No. 2. In late 1950 it was decided not to prosecute No. 2 criminally for tax evasion, and a civil settlement was effected. Notice was given to the Attorney for the Government, who had previously stated that he would not act against No. 2 until the tax case had been settled. No further action was ever taken by the Attorney for the Government in this matter. No. 2 did not apply for re-enrollment in 1952.

No. 3

No. 3 was charged with the willful preparation of false entries in books of accounts which he kept for his client, so as to make it possible for his client to evade taxes. In February 1950, the Intelligence Division recommended to the Attorney for the Government that No. 3 be disbarred. No action was ever taken on the matter. No. 3 did not apply for re-enrollment in 1952.

Nos. 4 and 5

Nos. 4 and 5 were brothers and law partners, and represented conflicting interests in a large estate. For this misconduct both were suspended in January 1949 from practice in their home state for one year. In January 1950, both were disbarred in the federal courts. In July 1949 both cases were forwarded to the Attorney for the Government with a recommendation for disbarment. Despite the fact that these men had been disbarred in the federal courts and suspended in state courts, no action was taken against their enrollee status. They did not apply for re-enrollment in 1952.

No. 6

No. 6 accepted a fee from a client for services to be rendered in the preparation and filing of a partnership tax return. He failed to file the return, but insisted on retaining the fee. The Intelligence Division recommended his disbarment in March 1950. No action on the case was ever taken. No. 6 did not apply for re-enrollment in 1952.

No. 7

No. 7 was a former Internal Revenue Agent. In 1938, while still a Revenue Agent, he admitted to having embezzled money from a federal credit union but for some reason was nevertheless retained in the Internal Revenue Service. A few years later he was accused of accepting a bribe from a taxpayer. This investigation was closed on the ground that the evidence against him was insufficient. He thereafter resigned from the Internal Revenue Service, and was granted admission to practice before the Treasury Department on the basis of his special qualifications as a former employee thereof. He was charged with disreputable conduct as an enrollee in the following respects: doing business under a trade name in violation of the regulations of the Committee on Practice; engaging in partnership with an accountant not licensed to practice as such, again in violation of regulations of the Committee on Practice; failing to file a return for a taxpayer after having received a fee therefor; and, finally, making various false accusations against government agents. The Intelligence Division in February 1949, recommended his disbarment. The Attorney for the Government closed the case on the ground that it was too difficult to prove. No. 7 did not apply for re-enrollment in 1952.

No. 8

No. 8, an attorney, was charged with willful failure to file federal income tax returns for the years 1944 through 1949. In January 1951, No. 8 made a voluntary disclosure of his failure to file returns and, under the terms of the voluntary disclosure policy then in effect, thereby escaped criminal prosecution. The Intelligence Division rec-

ommended, however, that on the basis of his failure to file returns for the six-year period, he should be disbarred. This recommendation was made in May 1951. No action was taken on the matter. No. 8 did not apply for re-enrollment in 1952.

No. 9

No. 9 was a former Internal Revenue Agent with a record of 14 years of service with the Bureau of Internal Revenue. He resigned in 1943 and thereafter was admitted to practice as an agent. For the next five years he failed to file federal income tax returns. After investigation, the Intelligence Division recommended his disbarment in June 1950. Eleven months later the Attorney for the Government filed with the Committee on Practice a statement of charges against No. 9. This complaint was dismissed in September 1952. No. 9 did not apply for re-enrollment in 1952.

No. 10

No. 10 was an attorney who had drawn a number of chattel mortgages, and participated in certain real estate transactions in behalf of one of his clients. When the client died, No. 10 was engaged as attorney for the estate and prepared the estate tax return. Notwithstanding the fact that he had himself drawn these chattel mortgages for the decedent, No. 10 omitted them from the schedule of assets on the estate tax return. The Special Agent in Charge recommended that he be criminally prosecuted for this omission, but prosecution was declined by the Regional Counsel of the Bureau. The matter was referred to the Attorney for the Government for a decision as to whether No. 10's conduct should cause him to be disciplined by the Committee on Practice. The Attorney for the Government closed the case without action on September 1951. No. 10 was allowed to re-enroll in February 1952 without hearing or investigation. No disciplinary proceedings are pending against him.

No. 11

No. 11 was charged with tax evasion on his own behalf and for some of his clients, with having practiced under a false partnership name, and with soliciting clients. His disbarment was recommended by the Intelligence Division in August 1949. He had previously been the subject of two other investigations in which charges against him were dismissed for lack of evidence. The case remained with the Attorney for the Government for three years without action. In June 1952, No. 11 applied for re-enrollment. No card has been issued as yet, but neither has he been formally denied re-enrollment.

No. 12

No. 12 was charged with filing false and fraudulent income tax returns for himself, with soliciting clients, with making representations to clients that he could obtain extraordinary favors from Treasury employees, with committing perjury in a proceeding before the Treasury Department, and with violation of the Committee's rules respecting contingent fee agreements. Criminal prosecution of No. 12 for the tax evasion charge was dropped, under the then health policy, but the Intelligence Division recommended his disbarment in May 1950. No action was taken on the matter. No. 12 did not apply for re-enrollment in 1952.

No. 13

No. 13, an attorney, was convicted in June 1949 of forgery. He was disbarred in his state and received a two-year prison sentence. In September 1949 the Intelligence Division recommended that he be disbarred by the Committee on Practice. No action was taken on this case by the Attorney for the Government. No. 13 did not apply for re-enrollment in 1952. In September 1952 the existing complaint against him was dismissed.

No. 14

No. 14 had some 300 letters multigraphed and mailed to automobile dealers who were neither clients nor friends of his, soliciting accounting work in violation of regulations of the Committee on Practice. The Intelligence Division recommended that the Committee on Practice issue a reprimand to No. 14 for this unethical conduct. The Committee on Practice declined, stating that it did not have the authority to do anything other than disbar or suspend enrollees. It was stated by the Chairman of the Committee on Practice that the Committee might have the power to issue reprimands, but before doing so would have to amend its regulations to that effect. This issue has recurred in many cases where enrollees have been guilty of unethical conduct of such nature that some disciplinary action was appropriate, but where disbarment or suspension was considered too drastic. The standard response of the Committee on Practice has consistently been that the Committee has not the power to issue reprimands. To date, however, the Committee has made no attempt to amend its regulations in this regard nor to seek whatever statutory authority may be necessary to empower it to do so. No. 14 was allowed to re-enroll in March 1952, without hearing or investigation. No disciplinary proceedings are pending against him.

No. 15

No. 15 was charged with having committed perjury in the trial of a tax fraud prosecution, and with having prepared false tax returns for a client. No 15 had been the accountant for a well known gambler who was indicted on a charge of criminal tax fraud and tried therefor in 1949. No. 15 was a witness for the defense at the trial and gave testimony which was in conflict with sworn testimony which he had previously given to the Intelligence Division.

On the basis of this conflict of testimony, the Intelligence Division recommended in August 1949, that No. 15 be disbarred. No action was ever taken in this case. No. 15 was allowed to re-enroll in March 1952, without hearing or investigation. No disciplinary proceedings are pending against him.

No. 16

No. 16 was indicted, together with a client of his, on a charge of conspiracy to evade the client's tax liability. The matter was set down for trial in federal court. The client died before the trial and thereafter the criminal case against No. 16 was closed. The Intelligence Division then recommended in June 1951, that No. 16 be disbarred. No. 16 was allowed to re-enroll in February 1952, without hearing or investigation. No disciplinary proceedings are pending against him.

No. 17

No. 17 had been a Special Agent with the Intelligence Division from August 1945 to April 1947. He was the subject of an investigation for misconduct in maintaining an outside accounting practice while serving as a Special Agent, and with accepting gratuities from taxpayers. The investigation disclosed that he did not report on his tax returns the fees received from his outside accounting practice, and on this basis it was recommended by the Intelligence Division in June 1948, that he be disbarred. A year and a half later, in February 1950, the Attorney for the Government served a statement of charges on No. 17. No hearing was ever held. No. 17 did not apply for re-enrollment in 1952.

It is interesting in this connection to note that, after No. 17 resigned from the Bureau under questionable circumstances, he applied for, and was granted, admission to practice before the Treasury Department on the basis of his former service as a Special Agent. Another Special Agent in the Intelligence Division noticed his name on a list of new enrollees, and the investigation leading to the recommendation for disbarment was thereafter instituted. If there had been any investigation made of No. 17's record as a Special Agent and the circumstances under which he left the government service, it would seem logical to conclude that he would not have been granted admission to practice on the basis of his former government service.

Nos. 18 and 19

X, a young Internal Revenue Agent, was conducting an audit of the tax returns of Y. Y asked X to recommend an accountant and X, in violation of Bureau regulations, recommended certified public accountant No. 18. Thereafter No. 18 offered to split his fee in the case with X, who declined. In due course, a criminal tax fraud investigation of Y was begun, and Y retained an attorney, No. 19. No. 18 and No. 19 attempted to prevent a recommendation for a criminal prosecution by threatening to report to the Bureau the unethical conduct of X in recommending an accountant to a taxpayer. Strenuous efforts were made by Nos. 18 and 19 to use X's indiscretion as a weapon for closing the criminal case against their client, Y. X testified that Y offered him a thousand dollar bribe during the investigation. Y eventually pleaded guilty of tax fraud. No. 18's case was referred to the Attorney for the Government with a recommendation that the Committee issue a reprimand to him. The case was closed without action by the Attorney for the Government in April 1952. No action was ever taken in the case of No. 19. No. 18 was allowed to re-enroll without hearing or investigation in January 1952. No disciplinary proceedings have been initiated against him. No. 19 did not apply for re-enrollment in 1952.

No. 20

No. 20, an attorney, served as administrator of an estate. As such administrator, he failed to report capital gains realized by the estate and engaged in tax avoidance devices which, in the opinion of a Special Agent, constituted attempted tax evasion. Because of insufficiency of proof, however, the Intelligence Division in June 1950 recommended only that he be reprimanded by the Committee on Practice. The Attorney for the Government closed the case two weeks later without action. No. 20 was allowed to re-enroll without hear-

ing or investigation in March 1952. No disciplinary proceedings are pending against him.

No. 21

No. 21 was charged with filing false and fraudulent income tax returns for himself, and of conspiring with a client to evade the client's taxes as well. The Chief Counsel's office declined criminal prosecution of No. 21 for tax evasion, but the Intelligence Division recommended in July 1948 that he be disbarred. No action was taken on this case by the Attorney for the Government during the next four years. No. 21 did not apply for re-enrollment in 1952.

No. 22

No. 22 was charged with making false statements under oath to Bureau agents, and with willful failure to file federal income tax returns. His disbarment was recommended by the Intelligence Division in June 1951. The case was closed without action by the Attorney for the Government in July 1951. No. 22 was allowed to re-enroll in March 1952 without hearing or investigation. No disciplinary proceedings are pending against him.

No. 23

No. 23, an attorney, was charged with having committed fraud in the preparation of his own income tax returns and with having engaged in a fraudulent partnership with his wife, who was not authorized to practice law. No. 23's civil tax case was closed with the assessment and payment of the fraud penalty. Thereafter, in August 1949, the Intelligence Division recommended that he be disbarred. No action was taken on this case by the Attorney for the Government. No. 23 did not apply for re-enrollment in 1952.

No. 24

No. 24 was charged with misrepresenting facts to government agents, with soliciting clients for tax and accounting work, and with several other violations of the canons of ethics. The matter was referred to the Attorney for the Government by the Intelligence Division in May 1951. No action has been taken with respect to these charges. No. 24 applied for re-enrollment in 1952 and was issued a temporary card in June 1952, pending a hearing. The hearing has not yet been held.

No. 25

No. 25, an agent, was indicted in June 1949 on 11 counts of forgery and conspiracy relating to alteration of the records of a corporation to conceal extortion payments to a gangster. The case is still pending in the state courts. In April 1951, the matter was referred to the Attorney for the Government. No. 25 was allowed to re-enroll in February 1952, without hearing or investigation. No disciplinary proceedings are pending against him.

No. 26

No. 26 was charged with having collected money from clients for the alleged purpose of bribing Internal Revenue Agents. The matter was referred to the Attorney for the Government in November 1951, with a recommendation for disbarment. No. 26 was allowed to re-enroll in January 1952 without hearing or investigation. No disciplinary proceedings are pending against him.

No. 27

No. 27, an attorney, was indicted and in 1950 pleaded guilty to a charge of grand larceny. In November 1950, he was given a prison sentence of from 5 to 10 years on each of three counts of grand larceny. He was thereafter disbarred in the state courts. In November 1950, the Intelligence Division recommended to the Attorney for the Government that he be disbarred by the Committee on Practice. No action was ever taken on this case, and until March 1952, when his enrollment automatically expired, No. 27 was authorized, even though he was then an inmate of a state prison, to represent clients before the Treasury Department. No. 27 did not apply for re-enrollment in 1952.

No. 28

No. 28, an attorney, was indicted on a charge of grand larceny of assets of an estate which he represented. In June 1945, he pleaded guilty to this charge of grand larceny. He was thereafter given a prison sentence of two years, and in September 1945, he was disbarred in the state courts. In May 1951, almost six years after his disbarment, the Intelligence Division recommended to the Attorney for the Government that No. 28 be disbarred. No action was taken on this case until after the matter had been discussed in a public hearing by the subcommittee in October 1951. Thereafter the Attorney for the Government recommended to the Committee on Practice that No. 28's resignation be accepted. This was done.

No. 29

No. 29 enrolled as an agent; thereafter he filed false and fraudulent personal income tax returns for three years. During this same period No. 29 became an Internal Revenue Agent and retained his status as an enrollee, in violation of the regulations of the Committee on Practice. On these grounds, the Intelligence Division recommended his disbarment, in January 1949. No. 29 was allowed to re-enroll in May 1952, without hearing or investigation. No disciplinary proceedings are pending against him.

No. 30

No. 30, an attorney, pleaded guilty to 23 counts of larceny and was given a prison sentence of not more than four years in June 1939. He was disbarred in the state courts in January 1939. More than 12 years later, he still held a Treasury card. The matter was called to the attention of the Secretary of the Treasury at a public hearing held by the subcommittee in October 1951, and thereafter No. 30's resignation was accepted.

No. 31

No. 31, an attorney, was the subject of a criminal tax fraud investigation which was begun after a number of tax returns which he had prepared for clients were subjected to audit. The criminal tax fraud case was disposed of without criminal prosecution because of No. 31's advanced age, but substantial additional taxes and penalties were assessed and paid. Thereafter in November 1950, the Intelligence Division recommended his disbarment. No action was ever taken on this case by the Attorney for the Government. No. 31 did not apply for re-enrollment in 1952.

No. 32

An investigation of No. 32 was commenced when a client of his complained to the Bureau that No. 32 had obtained $4,500 from him on the representation that the money would be used to bribe Internal Revenue Agents auditing the client's tax returns. After an investigation of this matter was commenced, No. 32 attempted to make a voluntary disclosure of his own tax liability, concerning which he had submitted fraudulent returns for some years. Criminal prosecution of No. 32 for tax evasion was dropped when the Regional Counsel concluded that No. 32 had made a voluntary disclosure, within the meaning of the policy then in effect. His disbarment was thereafter recommended by the Intelligence Division in July 1951. In June 1952, he was allowed to resign.

No. 33

No. 33 was charged with having attempted to bribe government officials in order to prevent criminal prosecution of one of his clients for tax fraud. The matter was referred to the Attorney for the Government in July 1952, after an investigation which had lasted for several years. No. 33 applied for re-enrollment in January 1952, but no card has yet been issued.

No. 34

No. 34, an attorney, was charged with willful failure to file income tax returns for a six-year period. The tax fraud case against No. 34 was closed in January 1951, after he had filed delinquent returns for the six years involved. In January 1952, the Intelligence Division forwarded the case to the Attorney for the Government. No. 34 did not apply for re-enrollment in 1952.

No. 35

No. 35 was the subject of a criminal tax fraud investigation for attempted evasion of federal income taxes over a three-year period. During the course of the investigation he refused to produce his books and records on the ground that to do so would incriminate him. This failure to produce records on grounds of self-incrimination, in addition to indicating the unfitness of No. 35 as an enrolled practitioner, was a violation of Section 10.2 (t) of Circular No. 230. In May 1951, the Intelligence Division recommended to the Attorney for the Government that No. 35 be disbarred. No action was taken by the Attorney for the Government. No. 35 did not apply for re-enrollment in 1952.

No. 36

No. 36, a former attorney in the office of the Chief Counsel for the Bureau, has twice been the subject of criminal tax fraud investigations. After the first investigation the Intelligence Division recommended his disbarment. The case was closed by the Attorney for the Government without action in December 1948. In February 1950, following the second tax fraud investigation, the Intelligence Division again recommended No. 36's disbarment on the ground that he had been guilty of tax evasion. The Attorney for the Government closed the case without action in November 1951. No. 36 was allowed to re-enroll in February 1952, without hearing or investigation. No disciplinary proceedings are pending against him.

No. 37

No. 37, an agent, falsely represented himself to the public as a certified public accountant. This matter came to the attention of the Intelligence Division in 1947, at which time an investigation was made and No. 37 was directed to cease representing himself as a certified public accountant. This he agreed to do. However, some years later the Intelligence Division discovered that he was still representing himself to be a certified public accountant and the matter was, therefore, submitted to the Attorney for the Government in May 1951. No action was taken on the matter by him. No. 37 was allowed to re-enroll in April 1952, without hearing or investigation. No disciplinary proceedings are pending against him.

No. 38

No. 38 was a county prosecuting attorney. An investigation conducted in that area by the Intelligence Division disclosed that local gamblers and prostitutes were paying substantial sums to county law enforcement officials for "protection." No. 38 was one of these officials. In addition to this malfeasance in office as county prosecutor, No. 38 did not report these "payoffs" on his tax returns. In November 1950, the Intelligence Division recommended his disbarment, but no action was taken. No. 38 did not apply for re-enrollment in 1952.

No. 39

No. 39, an attorney, applied for enrollment before the Department in 1937. An investigation conducted in connection with that application disclosed that, while in college, No. 39 had misappropriated fraternity funds, and that thereafter, as an attorney, he had misappropriated funds belonging to an estate which he represented and that he had accepted substantial funds from a client, ostensibly for bribes in connection with the client's application for a retail liquor dealer's license. He was also charged with the sale of forged promissory notes and with misappropriating some $20,000 from a wholesale liquor dealer for whom he was acting as attorney. In connection with his 1937 application for enrollment he submitted affidavits which the Intelligence Division contended were false. When questioned about these matters in connection with his application, No. 39 refused to discuss them, stating that he was making restitution. On this basis he was certified by the Committee on Practice as an attorney of good character, and was granted admission to practice before the Treasury Department. Thereafter, in connection with a tax fraud case involving a corporation with which he was connected, and in connection with a black market liquor case investigation being made by the Alcohol Tax Unit, evidence was obtained indicating his complicity in a conspiracy to evade the taxes of this corporation and of an attempt by him to evade his own personal income taxes. No action will be taken against him until the civil tax case now pending against him has been disposed of. No. 39 was allowed to re-enroll in May 1952 without hearing or investigation. No disciplinary proceedings are pending against him.

No. 40

No. 40 was the subject of a tax fraud investigation involving his failure to report income derived from black market transactions which he had engaged in during the war. In March 1952 the matter was referred to the Attorney for the Government and the case was closed by him forthwith in April 1952. No. 40 did not apply for re-enrollment in 1952.

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